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# Emergency Rules

## DECLARATION OF EMERGENCY

Department of Agriculture and Forestry  
Office of Agricultural and Environmental Programs

### Azinphos-methyl Restrictions

The commissioner of Agriculture and Forestry is exercising the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to his authority under R.S. 3:3203(A) hereby adopts the following emergency rule.

This emergency adoption is necessary in order that the department may closely monitor the application of the pesticide azinphos-methyl to sugarcane.

Prior to any application or recommendation for application of azinphos-methyl to sugarcane, approval shall be obtained in writing from the Louisiana Department of Agriculture and Forestry (hereinafter the "LDAF"). Such approval may be obtained by certified agricultural consultants from the Office of Agricultural and Environmental Programs of the LDAF. Where farmers do not use agricultural consultants, approval may be obtained by the private applicator or aerial applicators employed by such farmers from the Office of Agricultural and Environmental Programs of the LDAF.

The effective date of this rule is August 20, 1992, and they shall remain in effect for 120 days or until these rules take effect through the normal promulgation process, whichever is shortest.

Bob Odom  
Commissioner

## DECLARATION OF EMERGENCY

Department of Economic Development  
Office of the Secretary

### Employment Opportunity Loan Program

The Department of Economic Development, Office of the Secretary, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953 (B), to adopt the following emergency rule for a period of 120 days effective September 20, 1992. The emergency rule is necessary to expedite the implementation of Act 938 of the 1992 Regular Session of the Louisiana Legislature so that massive unemployment may be alleviated in the Alexandria-Pineville area due to the closing of England Air Force Base.

## Title 13

### ECONOMIC DEVELOPMENT

#### Part V. Louisiana Employment Opportunity Loan Program

##### Chapter 1. Loan Program

###### §101. Eligible Applicants

Employers eligible for participation in this program shall be industries that will locate facilities in Louisiana and existing Louisiana industries which are expanding their work force.

###### §103. Application Content

Employers desiring to participate in the Louisiana Employment Opportunity Loan Program shall submit the following to the secretary of the Department of Economic Development:

1. a syllabus of the curricula of the training course to be offered by the employer;
2. the length of the training course;
3. the cost of the training and the items included in the cost;
4. a statement of why other federal or state training programs are not sufficient to satisfy the total training needs of the employer;
5. intention to locate or expand;
6. number of employees to be hired and number of employees to be trained.

###### §105. Department Responsibilities

During the application review and negotiation process the department shall ensure that syllabus of the curricula of the training course to be offered by the employer, the length of the training course, the cost of the training is reasonable in terms of the skill or occupation being taught. After review and negotiation, the secretary shall enter into an agreement with the employer stating that the department has approved a syllabus of the curricula of the training course to be offered by the employer, the length of the training course, the cost of the training and the items included in the cost, the maximum number of trainees to be covered under the agreement and the maximum amount that may be borrowed by the student trainee.

###### §107. Disposition of Agreement

Immediately following the signing of the agreement by both the department and the employer, the department shall forward an original copy of the agreement to the Louisiana Student Financial Assistance Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3046 through 3046.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 18:

Kevin P. Reilly  
Secretary

## DECLARATION OF EMERGENCY

### Board of Elementary and Secondary Education

#### Flex Hiring Schedule for Technical Institutes

The Board of Elementary and Secondary Education, at its meeting of September 1, 1992, exercised those powers conferred by the Administrative Procedure Act, R. S. 49:953(B) and suspended the flex hiring scale for technical institutes for one year which will enable all new personnel,

with the exception of practical nursing instructors and individuals previously employed in the postsecondary technical institute system to be employed at step one until the walkover is fully funded. Practical nursing instructors and instructors previously employed may be placed on the schedule up to and including step five.

This action, which is an amendment to Bulletin 1868, *BESE Personnel Manual*, Chapter D, Section 145, deletes numbers 1 and 2 of the Salary Schedule for Postsecondary Vocational-Technical Personnel, FY 1991-92 which was adopted as an emergency rule, effective September 26, 1991 and printed in the October, 1991 issue of the *Louisiana Register*.

This board action will relieve problems associated with hiring individuals during Fiscal Year 1992-93 in the critical shortage areas and is part of the implementation procedure of the New Professional Development Salary Scheduled approved by the 1992 Regular Session of the Legislature to Fund Act 612 passed by the 1991 Regular Session.

Emergency adoption is necessary in order to employ individuals at the new salary schedule. Effective date of emergency rule is September 1, 1992.

Carole Wallin  
Executive Director

## DECLARATION OF EMERGENCY

### Board of Elementary and Secondary Education

#### Louisiana Components of Effective Teaching (LCET)

The Board of Elementary and Secondary Education, at its meeting of September 1, 1992, exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and adopted as an emergency rule, the Louisiana Components of Effective Teaching (LCET): A Position Paper, Teacher Evaluation Panel I Report, pages 13-18.

The Louisiana Components of Effective Teaching (LCET) will be incorporated in the revisions to Bulletin 1525, *Personnel Evaluation*, in accordance with R.S. 17:391.5 (Act 506 of the 1992 Regular Session of the Louisiana Legislature). Emergency adoption is necessary in order that copies of the revised Bulletin 1525 can be disseminated to the local school districts no later than December 31, 1992. The effective date of this emergency rule is September 1, 1992.

#### Domain I. Planning

Planning is an important aspect of the teaching/learning process and is primarily a mental activity. As a result, a pre-conference is essential to discuss plans and the learning environment. Assessment should be made following the pre-conference. The focus of the pre-conference is to be on the attributes in the planning domain and any additional teacher-supplied information. Daily written plans should follow local policy. Requirements for written planning shall not go beyond what is required by the local school district.

#### COMPONENT A. The Teacher Plans Effectively for Instruction

##### ATTRIBUTES

#### 1. Specifies Learner Outcomes In Clear, Concise Objectives

It is not necessary to specify different objectives for each child or groups of children.

#### 2. Includes Activity/activities That Develop Objectives

A required number of activities is not specified because this decision must be made by the teacher.

#### 3. Identifies And Plans For Individual Differences

It is not necessary to specifically describe ways individual differences are to be met in written plans. This will be discussed in the pre-conference.

#### 4. Identifies Materials, Other Than Standard Classroom Materials, As Needed For Lesson

Standard classroom materials include such things as textbooks, chalkboard, pencils, paper, etc.

#### 5. States Method(s) Of Evaluation To Measure Learner Outcomes

Evaluation may be formal or informal.

#### 6. Develops An Individual Education Plan (IEP), ITP, and/or IFSP\*

The Individual Education Plan (IEP), Individual Transition Plan (ITP), and/or individual Family Service Plan (IFSP) will meet state guidelines.

\* For special education teachers only.

#### Domain II. Management

Management is the organization of the learning environment and maintenance of student behavior. Focus should be placed on teacher behavior.

#### COMPONENT A. The Teacher Maintains an Environment Conducive to Learning

##### ATTRIBUTES

1. Organizes available space, materials, and/or equipment to facilitate learning

2. Promotes a positive learning climate

#### COMPONENT B. The Teacher Maximizes the Amount of Time Available for Instruction

##### ATTRIBUTES

1. Manages routines and transitions in a timely manner

2. Manages and/or adjusts allotted time for activities planned

#### COMPONENT C. The Teacher Manages Learner Behavior to Provide Productive Learning Opportunities

##### ATTRIBUTES

1. Establishes expectations for learner behavior

2. Uses monitoring techniques to facilitate learning

This may include reinforcing positive behavior, redirecting disruptive behavior, as well as, other methods.

#### Domain III. Instruction

The teacher, as the knowledgeable professional, is the person best-suited to determine effective instruction for his/her classroom.

It is the responsibility of the observer to discuss the lesson with the teacher for clarification. It is important that the observer understand that variations in the lesson may occur during delivery, and that the teacher makes adjustments as necessary to accommodate the needs and responses of students. The post-conference should provide an opportunity for the teacher to present his/her rationale for any modifications during the lesson.

The observer must take into account the special requirements of Act 504, special education regulations, and any other identifiable groups. Alternate methods of assessment must be developed for other professionals holding

teaching certificates (i.e., librarians, counselors, speech therapists, and assessment teachers).

**COMPONENT A. The Teacher Delivers Instruction Effectively**  
**ATTRIBUTES**

1. Uses technique(s) which develop(s) lesson objective(s)  
Technique(s) may include teacher-directed activity/activities or student-centered activity/activities.
2. Sequences lesson to promote learning  
Sequencing means that the teacher initiates, develops, and closes the lesson with continuity.
3. Uses available teaching material(s) to achieve lesson objective(s)
4. Adjusts lesson when appropriate

**COMPONENT B. The Teacher Presents Appropriate Content**  
**ATTRIBUTES**

1. Presents content at a developmentally appropriate level  
The teacher is knowledgeable of the content and relates it to the abilities and interests of the students.
2. Presents accurate subject matter
3. Relates relevant examples, unexpected situations, or current events to the content
4. Answers questions correctly and/or directs students to additional sources (i.e., references, labs, learning centers, etc.)

**COMPONENT C. The Teacher Provides Opportunities for Student Involvement in the Learning Process**  
**ATTRIBUTES**

1. Accommodates individual differences  
The teacher recognizes that students perform at different levels and provides opportunities for them to become involved. There are many ways of accommodating individual differences among children. Some of these are not always evidenced in observations, but in the planning. It may be necessary for the observer to ask the teacher for clarification of this in the post-conference.
2. Demonstrates ability to communicate effectively with students
3. Stimulates and encourages higher order thinking at the appropriate developmental levels
4. Encourages student participation

**COMPONENT D. The Teacher Assesses Student Progress**  
**ATTRIBUTES**

1. Uses assessment technique(s) effectively  
Assessing student performance may include formal and/or informal assessment procedures as well as formative and summative. Feedback may be verbal or non-verbal.
2. Monitors ongoing performance of students
3. Provides timely feedback to students regarding their progress

**Domain IV. Professional Development**  
**(Non-Performance)**

Professional development is not a performance component. It provides the opportunity for the teacher to use the evaluation process as a professional development plan. Just as children use different modes of learning, teachers also need to use a variety of channels to achieve professional development. The professional development plan may include a variety of ways in which teachers can engage in growth activities. The successful teacher shall not be mandated to participate in any one specific growth activity.

During the post-observation conference, the

principal/designee and the teacher will set a date to discuss the proposed professional self-development plan for the teacher.

**COMPONENT A. The Experienced Teacher Plans for Professional Self-Development**

These recommended activities are not limited to but may include being a mentor teacher; developing curriculum; delivering inservices; serving on textbook committees; developing teaching materials; promoting positive public relations; serving on SACS committees; reading professional literature; conducting research; evaluating programs; participating in workshops, conferences, professional organizations, school-based activities, classroom observation of peers, and parent/teacher organizations, etc. These activities shall be monitored on the local level.

If an experienced teacher does not perform satisfactorily, an intensive assistance plan shall be developed.

**COMPONENT B. The Intern Teacher Plans for Professional Self-Development**

The intent of Component B is that the intern teacher will concentrate on necessary improvements in Domains I, II and/or III, as agreed upon with his/her principal and other members of the support team.

If through the assessment process the intern teacher does not demonstrate competence in Domains I, II and/or III, a professional growth plan shall be developed which concentrates on the necessary improvements.

If through the assessment process the intern teacher has demonstrated competence in Domains I, II and/or III, the intern teacher may select to engage in self-selected growth activities as outlined in Component A of Domain IV.

Carole Wallin  
Executive Director

**DECLARATION OF EMERGENCY**

**Board of Elementary and Secondary Education**

Federally Required Amendments to the Louisiana Annual Special Education Program Plan for FY 91-93

The Board of Elementary and Secondary Education, at its meeting of September 1, 1992, exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and readopted as an emergency rule, the federally required amendments to the Louisiana Annual Special Education Program Plan for FY 91-93.

These amendments were previously adopted as an emergency rule and printed in full in the May, 1992 issue of the *Louisiana Register*. Re-adoption as an emergency rule is necessary in order for the present emergency rule to continue until the amendments can be finally adopted as a rule. Effective date of this emergency rule is September 1, 1992,

Carole Wallin  
Executive Director

## DECLARATION OF EMERGENCY

### Board of Elementary and Secondary Education

#### Teacher Evaluation Panel II Report

The Board of Elementary and Secondary Education, at its meeting of September 1, 1992, exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953 (B) and adopted as an emergency rule, pages 1-22 of the Teacher Evaluation Panel II Report.

The uniform procedure for local evaluation programs on pages 1-22 of the Teacher Evaluation Panel II Report will be incorporated into Bulletin 1525, *Personnel Evaluation*, in accordance with R.S. 17:391.5 (Act 506 of the Regular Session of the 1992 Louisiana Legislature). Emergency adoption is necessary in order that copies of the revised Bulletin 1525 can be disseminated to the local school districts no later than December 31, 1992. Effective date of this emergency rule is September 1, 1992.

### EMERGENCY RULE

#### Introduction

Teaching is thinking,  
thinking about what students need to know and be able to do,  
thinking about what the teacher can do to foster such learning,  
thinking about how successful the teacher has been in achieving the desired learning outcomes, and  
thinking about how the teacher should teach that lesson next time.

Teacher evaluation focuses on what students know and are able to do and what the teacher can do to strengthen or enhance the level of learning in the classroom. Teacher evaluation is meaningful, in that it deals with aspects of instruction that make sense to both the teacher and evaluator. Teacher evaluation is productive and results in recommendations that improve the quality of the teaching-learning process. This is the conception of teacher evaluation that guided the panel as it pursued its charge.

The panel's conception of teacher evaluation is consistent with the definition of evaluation found within *Personnel Evaluation Accountability, A Guide for Implementation*, Bulletin 1525, page 7, number 10:

*Evaluation*--the process of making considered judgments concerning the professional accomplishments and competencies of a certified employee, as well as other professional personnel, based on a broad knowledge of the area of performance involved, the characteristics of the situation of the individual being evaluated, and the specific standards of performance pre-established for the position.

#### Distinctions Between Assessment and Evaluation

The panel realized that it was important to make some distinctions between assessment and evaluation. The purpose of the state assessment program is to determine whether a teacher can teach effectively, whereas the local evaluation program determines whether a teacher does teach effectively. The Louisiana Department of Education (LDE) is responsible for the state assessment program while the local

school districts are responsible for the local teacher evaluation programs. The Louisiana Components of Effective Teaching are utilized as performance criteria in both programs. Panel II's responsibility was to establish guidelines for strengthening and standardizing local teacher evaluation. A standardized performance-based instrument for state assessment, the Louisiana Teacher Appraisal Instrument, will be developed by Panel IV.

#### The Panel's Charge

The panel was charged to make recommendations for strengthening and standardizing the teacher evaluation programs employed by school districts across the state. The panel operated under the assumption that local teacher evaluation programs would be standardized if they were

a) grounded in the same statement of philosophy and purposes,

b) used common criteria to evaluate teachers, and

c) included procedures that complied with uniform guidelines for teacher evaluation programs. Furthermore, the panel believed that teacher evaluation programs would be strengthened, if such philosophy and purposes, criteria, and guidelines reflected the best current thinking and research about effective teacher evaluation practices. Thus, panel members considered the current literature on teacher evaluation and then developed a statement of philosophy and purposes for teacher evaluation in Louisiana as well as uniform guidelines for local teacher evaluation programs across the state. These guidelines include reference to common criteria that would be used to evaluate teachers, the Louisiana Components of Effective Teaching. The Louisiana Components of Effective Teaching were developed by another panel.

In addition to developing a common set of state guidelines for teacher evaluation programs, the panel developed criteria for each guideline that can be used to determine whether a local school district's teacher evaluation program complies with that guideline. The panel recommends that these guidelines be used by the Louisiana Department of Education to strengthen and to standardize teacher evaluation programs at the local school district level according to the following timeline:

1992-93 - All school districts will review their current teacher evaluation programs in light of the new state guidelines and will develop plans to strengthen their programs if necessary.

1993-94 - All school districts will implement the new practices needed to strengthen their teaching evaluation programs.

1994-95 - All school districts will continue to implement their new teacher evaluation practices and make refinements if necessary.

As local school districts proceed to review and to strengthen their current teacher evaluation programs, the panel recommends that the Louisiana Department of Education provide them with resources that can assist them in this process. Such resources could include information about teacher evaluation staff development opportunities available at the state and regional levels, examples of some more effective teacher evaluation practices being implemented in Louisiana school districts, and readings such as *A Handbook for Teacher Evaluation and Professional Growth in More Productive Schools*<sup>1</sup>, among others.

The statement of philosophy and purposes of teacher

Iwanicki, E. F. (1992) *A Handbook for Teacher Evaluation and Professional Growth in More Productive Schools*. Storrs, CT: The Connecticut Institute for Personnel Evaluation, Department of Educational Leadership, The University of Connecticut

evaluation as well as the guidelines for teacher evaluation programs developed by this panel are presented in the subsequent sections of this report. It is important to note that the panel viewed teacher evaluation in the generic sense, a process for the evaluation of all certified professional staff (i.e., classroom teachers, special services staff, and building as well as district level administrators).

### Philosophy and Purposes of Teacher Evaluation

As we move through the decade of the nineties, it is clear that public schools must provide a high quality education that prepares our youth for the demands of the 21st century. In order to meet these challenges, educators must focus on providing the best educational opportunities for all children. Recognizing this, the State Board of Elementary and Secondary Education has established uniform guidelines for personnel evaluation.

Personnel evaluation is directed toward the continued enhancement of learning through a process of encouraging professional growth for all educators by establishing a system of professional accountability. It is an ongoing, shared process aimed at improving instruction and the learning environment for all students.

The purposes for which teacher evaluation will be used in Louisiana are as follows:

- 1) To assure the public that
  - a) the educational system is providing the best opportunities for all children to learn,
  - b) the best qualified personnel are employed in every position, and
  - c) effective teaching continues in the classroom;
- 2) To foster the continuous improvement of teaching and learning by providing opportunities for the professional growth of all educators; and
- 3) To provide support for the professional development of new teachers during their period of internship.

### Guidelines for Teacher Evaluation Programs

Guidelines for local school district teacher evaluation programs in Louisiana are presented in the subsequent sections of this report. Compliance criteria are provided for each guideline.

Yes - indicates the school district meets the criterion

No - indicates the school district does not meet the criterion

Partial - indicates the school district has a plan for meeting the criterion.

A school district's teacher evaluation program is approved with respect to a particular guideline if it meets all criteria for that guideline. The program receives conditional approval if it meets some criteria and has a plan for meeting all the others. Disapproval results when the school district does not meet all the criteria for a particular guideline and has no plan to rectify this situation.

### 1. Focus on Educational Improvement

The teacher evaluation program is well grounded in the local school district's educational philosophy and goals. An overview of the district's philosophy and priority educational goals is provided and related to the philosophy and purposes of teacher evaluation. A clear message is provided as to how teacher evaluation will be used to better facilitate the

attainment of short and long term goals for educational improvement at the district and school building levels.

#### Compliance criteria:

District's philosophy and priority educational goals are related to the philosophy and purposes of teacher evaluation	Y N P
Teacher evaluation is related to goals for educational improvement at the district level	Y N P
Teacher evaluation is related to goals for educational improvement at the school building level	Y N P
Overall assessment: ( ) Approval ( ) Conditional approval ( ) Disapproval	

### 2. Staff Involvement in the Teacher Evaluation Program

A teacher evaluation steering committee is formed at the local school district level that is representative of administrators and classroom teachers and is selected by each of these groups. This standing committee is responsible for assessing the strengths and weaknesses of the school district's teacher evaluation program in light of the Louisiana Guidelines for Teacher Evaluation Programs. Furthermore, it will oversee the planning and implementation of any revisions necessary to strengthen the teacher evaluation process. Periodically, at least every three years, this committee will evaluate the extent to which the purposes of the local teacher evaluation program are being achieved.

#### Compliance criteria:

A representative teacher evaluation steering committee has been formed to review the current local teacher evaluation program in light of new state guidelines	Y N P
This committee has balanced representation of both teachers and administrators	Y N P
The committee has developed a plan for strengthening the current teacher evaluation process where necessary	Y N P
The committee has developed a plan for evaluating whether the purposes of the teacher evaluation program are being achieved	Y N P
Overall assessment: ( ) Approval ( ) Conditional approval ( ) Disapproval	

### 3. Philosophy and Purposes of Teacher Evaluation

The philosophy and purposes for which teacher evaluation is used in the local school district are stated clearly in writing. This philosophy is grounded in the beliefs that all students can learn, good teaching increases the chances of students learning, and a collegial, collaborative relationship between a teacher and evaluator creates the appropriate climate for good teaching.

A purpose of the teacher evaluation program is to assure the public that the educational system is providing the best opportunities for all children to learn, that the best qualified personnel are employed in every position, and that effective teaching continues in the classroom.

Another purpose of the teacher evaluation program is the improvement of the teaching/learning process. This includes the encouragement of creativity and innovation in the planning and implementation of teaching strategies that are consistent with the contemporary research on effective classroom processes. Teacher evaluation includes promoting the professional growth and development of staff as well as providing support for new teachers during their period of internship.

In summary, teacher evaluation is pursued with the spirit that it is a process for making good teachers better, rather than one that is directed toward finding fault with teaching.

#### Compliance criteria:

The philosophy and purposes of the local teacher evaluation program are stated clearly in writing	Y N P
The philosophy and purposes of the local teacher evaluation program have been explained to and discussed with teachers	Y N P



The purposes provide the public assurances that only effective teachers continue to be employed by the school district Y N P

The purposes reflect sound principles of effective teaching and learning that are supported by contemporary research Y N P

The purposes support the improvement of the teaching-learning process as well as the continued professional growth and development of instructional personnel Y N P

Overall assessment: ( ) Approval ( ) Conditional approval ( ) Disapproval

#### 4. Accountability Relationships

Accountability relationships are defined clearly in writing. These relationships are communicated effectively so all professional staff know who is accountable to whom for the purposes of teacher evaluation.

##### Compliance criteria:

Accountability relationships are defined clearly in writing Y N P

Teachers are informed each year as to who is responsible for their evaluation Y N P

Overall assessment: ( ) Approval ( ) Conditional approval ( ) Disapproval

#### 5. Evaluation Criteria

The evaluation criteria for each professional staff position (e.g., teachers, principals, librarians, etc.) are stated clearly in writing in the job description. Classroom teachers are evaluated on the basis of job descriptions that include the Louisiana Components of Effective Teaching and any other appropriate criteria identified by the local school district. The Louisiana Components of Effective Teaching are a broad, general description of good teaching. Because teacher evaluation results in an in-depth analysis of teaching, it is usually not advisable to use only a rating scale or checklist to rate a successful, experienced teacher on all of the criteria included in the job description. Instead, these criteria should be used as a frame of reference for a descriptive review and analysis of teaching that focuses the evaluation process on strengthening and/or enhancing a few critical aspects of teaching.

##### Compliance criteria:

The evaluation criteria for each professional staff position are stated clearly in writing in the job description Y N P

The Louisiana Components of Effective Teaching are included in the job descriptions of instructional personnel Y N P

The evaluation criteria provide a frame of reference for a descriptive review and analysis of teaching rather than only a rating scale or checklist of teaching effectiveness Y N P

Overall assessment: ( ) Approval ( ) Conditional approval ( ) Disapproval

#### 6. The Classroom Observation Process

Classroom observation is a critical aspect of the teacher evaluation process. The evaluator conducts observations that are of sufficient duration to see the lesson begin, develop, and culminate. A pre-observation conference is conducted to review the teacher's lesson plan. A post-observation conference is arranged to discuss and analyze the lesson as well as to prepare an observation report. The primary purpose of this report is not to rate the teacher on a scale or checklist, but rather, to reach consensus on commendations as well as recommendations for strengthening or enhancing teaching. Follow-up classroom visits and observations are conducted to determine what impact these recommendations have had on improving the quality of the teaching-learning process in the teacher's classroom.

##### Compliance criteria:

Teaching is evaluated through periodic classroom observations Y N P

Observations are of sufficient duration to see the lesson begin, develop, and culminate Y N P

The primary purpose of the classroom observation is not to rate the teacher, but rather, to reach consensus on commendations as well as to make recommendations to strengthen or enhance teaching Y N P

Follow-up classroom visits and observations are conducted to reinforce positive practice and to determine how recommendations have impacted the quality of the teaching-learning process Y N P

Overall assessment: ( ) Approval ( ) Conditional approval ( ) Disapproval

#### 7. Developing the Professional Growth Plan

Periodic evaluation conferences are conducted to discuss and to analyze teaching for the purpose of developing longer term (one - two year) professional growth plans to strengthen or enhance the teaching-learning process in the classroom. These professional growth plans are based on a descriptive analysis of teaching rather than only on the results of a checklist or rating scale. Usually such plans include two to three objectives developed collaboratively by the teacher and evaluator. For successful, experienced teachers, these objectives may extend beyond the professional responsibilities included in the job description and may be used to explore new, untried, innovative ideas or projects. Each objective includes a plan of action to guide the teacher's progress as well as observable evaluation criteria that the teacher and evaluator can use to determine the extent to which each objective has been achieved. The evaluation criteria show clearly how achievement of the objective will impact the quality of the teaching-learning process in the classroom.

##### Compliance criteria:

Teachers develop longer term professional growth plans to strengthen or enhance the teaching-learning process Y N P

Professional growth plans are based on objectives developed collaboratively by the teacher and evaluator Y N P

A plan of action and evaluation criteria are specified for each objective Y N P

For successful, experienced teachers, objectives are used to explore new, untried, innovative ideas or projects Y N P

Overall assessment: ( ) Approval ( ) Conditional approval ( ) Disapproval

#### 8. Teacher Self-Evaluation

Teachers are encouraged to assume significant responsibility for the evaluation of their performance. Ample opportunities are provided throughout the teacher evaluation process for personal reflection, self-evaluation, and peer collaboration. The products of such efforts are shared in self-evaluation reports which teachers submit as part of the teacher evaluation process. Training is provided for all teachers in techniques for reflection and self-evaluation. Additional staff development opportunities are provided for those teachers who wish to work as peer coaches or in other peer support and assistance roles (i.e., mentors, peer support persons in intensive assistance programs for experienced teachers). Participation in such peer support roles is voluntary. Teachers serving as peer coaches or providing other peer support and assistance are not evaluators as defined in these guidelines.

##### Compliance criteria:

Training is provided for teachers in techniques for personal reflection, self-evaluation, and peer collaboration Y N P

Teachers are provided opportunities throughout the evaluation process for personal reflection, self-evaluation, and peer collaboration Y N P

Teachers include a self-evaluation as part of the overall evaluation of their teaching Y N P

Overall assessment: ( ) Approval ( ) Conditional approval ( ) Disapproval

**9. The Evaluation Period**

All professional staff are evaluated in writing each year. How professional staff are evaluated may vary depending on their experience and proficiency in the classroom. The evaluation process for intern teachers tends to focus on strengthening proficiency in the classroom, while the evaluation process for tenured, experienced teachers tends to focus on professional growth and school improvement. Beginning teachers and those new to the school district will be evaluated each year through classroom observations for their first three years of employment. More experienced teachers will be evaluated on the basis of classroom observations at least once every three years. Successful, tenured teachers may be evaluated on a multi-year cycle that encourages staff to pursue longer term professional growth and school improvement initiatives. For example: a three-year may be implemented as follows:

Year One: Teacher is evaluated formally on the basis of classroom observation;

Years Two-Three: Teacher is evaluated on the basis of progress toward those objectives included in his/her professional growth plan. Periodic classroom visits and/or observations may be conducted as necessary at the discretion of the evaluator or at the request of the teacher.

It is imperative that professional staff clearly understand the procedures and timelines that will be used to evaluate their performance.

**Compliance criteria:**

All professional staff are evaluated in writing each year	Y N P
The evaluation process is tailored to the levels of experience and classroom proficiency of the teacher	Y N P
Successful, tenured teachers are evaluated on a multi-year cycle that encourages staff to pursue more meaningful, longer term professional growth and school improvement initiatives	Y N P
Overall assessment: ( ) Approval ( ) Conditional approval ( ) Disapproval	

**10. Information Included in the Teacher Evaluation Process**

The evaluation of teaching is based on one or a combination of the following:

- a) Evaluator's assessment of teaching based on the criteria specified in the teacher's written job description, including the Louisiana Components of Effective Teaching,
- b) Evaluator's assessment of the progress the teacher has made toward achieving those objectives included in the professional growth plan that was developed collaboratively with the evaluator, and
- c) Teacher's self-evaluation of teaching as well as progress toward achieving those objectives included in his/her professional growth plan.

**Compliance criteria:**

Evaluator's assessment of teaching is based on the job description, including the Louisiana Components of Effective Teaching	Y N P
Evaluator's assessment of teaching is based on progress toward the objectives included in the teacher's professional growth plan	Y N P
Evaluation includes the teacher's self-evaluation of teaching as well as progress toward objectives included in the professional growth plan	Y N P
Overall assessment: ( ) Approval ( ) Conditional approval ( ) Disapproval	

**11. Coordination with the Induction of Intern Teachers**

Mentor support is provided through the teacher evaluation process for the induction and professional growth of intern teachers. A concerted effort is made to ensure that intern teachers are socialized in a professional manner and that they experience success in the classroom. Assistance

made available through the local teacher evaluation process is coordinated with the state support and assessment program for any beginning teacher with a Provisional or Temporary Teaching Certificate.

**Compliance criteria:**

Mentor support is provided for the induction of intern teachers	Y N P
The Louisiana Components of Effective Teaching are a focus for the evaluation of beginning teachers	Y N P
Assistance made available through the local teacher evaluation process is coordinated with the state support and assessment program for beginning teachers	Y N P
Overall assessment: ( ) Approval ( ) Conditional approval ( ) Disapproval	

**12. Intensive Assistance for Experienced Teachers**

If it is determined through the teacher evaluation process that an experienced teacher does not satisfactorily meet the local school district's standards of performance, then that teacher is placed in an intensive assistance program. When the teacher is placed in such a program, he/she is informed in writing of the reason(s) for the placement. Then an intensive assistance plan is developed with the teacher.

The plan specifies:

- a) what the teacher needs to do to strengthen his/her performance including a statement of the objective(s) to be accomplished and the expected level(s) of performance;
- b) what assistance/support is provided by the school district;
- c) a timeline for achieving the objectives and the procedures for monitoring the teacher's progress including classroom observations and conferences; and
- d) the action that will be taken if improvement is not demonstrated.

Experienced teachers can assume that they are performing satisfactorily unless they have been placed in an intensive assistance program.

**Compliance criteria:**

An intensive assistance program is provided for teachers who do not meet the local district's standards of satisfactory performance	Y N P
Any teacher placed in an intensive assistance program is informed in writing of the reason(s) for this placement	Y N P
An intensive assistance plan is developed for any teacher placed in such a program	Y N P
The local school district provides the professional development support necessary to enable the teacher to meet the objectives of this plan	Y N P
The local school district takes appropriate action in accordance with legislative, SBESE and local school board mandates if satisfactory improvement is not demonstrated	Y N P
Overall assessment: ( ) Approval ( ) Conditional approval ( ) Disapproval	

**13. Procedures for Resolving Conflict**

The teacher evaluation program includes procedures for resolving disagreement or conflict in a fair, efficient, effective, and professional manner. A teacher must sign any evaluation report placed in his/her personnel file. Signature indicates only that the teacher has received a copy of the report. If the teacher does not agree with any aspect of a report, he/she meets with the evaluator to resolve the disagreement. If the disagreement cannot be resolved, the teacher will attach a signed statement clarifying or rebutting that aspect of the report. Also the teacher may initiate any grievance procedures that apply.

**Compliance criteria:**

- The evaluation program includes procedures for resolving conflict in a fair, efficient, effective, and professional manner Y N P
- If conflict cannot be resolved, the teacher is encouraged to submit a signed statement clarifying or rebutting the issue in question Y N P
- Grievance procedures are clearly specified for situations where conflict cannot be resolved Y N P
- Overall assessment: ( ) Approval ( ) Conditional approval ( ) Disapproval

**14. Staff Development for Teacher Evaluation**

The school district provides training on a continuing basis for all staff involved in the teacher evaluation process (e.g., district level administrators and supervisors, principals and assistant principals, classroom teachers). This training is supported by the LDE and coordinated through the Regional Service Centers (RSCs). Initial training focuses on developing the following:

- a) a positive, constructive attitude toward teacher evaluation,
- b) a knowledge of state laws and local school district policies governing the teacher evaluation process and associated due process procedures,
- c) an understanding of the Louisiana Components of Effective Teaching, and
- d) an understanding of the local school district's teacher evaluation program, including the philosophy and purposes, criteria, and procedures.

Further training focuses on developing those skills needed to diagnose and to strengthen or enhance teaching effectively. The skills addressed in such training are as follows:

- a) data collection skills necessary to document a teacher's performance accurately,
- b) data analysis skills necessary to make accurate judgements about a teacher's performance,
- c) conferencing skills necessary to provide clear, constructive feedback regarding a teacher's performance,
- d) skills in developing and facilitating meaningful professional growth plans, plans that strengthen or enhance teaching effectiveness, and
- e) skills in writing effective evaluation reports, reports that document how evaluation has impacted the quality of the teaching-learning process in the classroom.

Training undertaken by administrators to implement the teacher evaluation process effectively is counted toward the accumulation of Louisiana Administrative Leadership Academy points.

**Compliance criteria:**

- The local school district provides initial training that focuses on developing the following:
  - a) a positive constructive attitude toward teacher evaluation Y N P
  - b) a knowledge of the laws/policies governing teacher evaluation associated due and process procedures Y N P
  - c) an understanding of the Louisiana Components of Effective Teaching Y N P
  - d) an understanding of the school district's teacher evaluation program Y N P
- The local school district provides further training in the following skill areas:
  - a) data collection skills necessary to document teaching accurately Y N P
  - b) data analysis skills needed to make accurate judgements about teaching Y N P
  - c) conferencing skills needed to provide clear, constructive feedback Y N P

- d) skills in developing meaningful professional growth plans Y N P
- e) skills in writing effective teacher evaluation reports Y N P
- Overall assessment: ( ) Approval ( ) Conditional approval ( ) Disapproval

**15. Impact of the Teacher Evaluation Process**

The impact of the teacher evaluation process on improving teaching and learning at the school building and district levels is documented and discussed by the staff each spring. The accomplishments of teachers and administrators in this regard are celebrated and shared with the school community.

**Compliance criteria:**

- The impact of the teacher evaluation process on improving teaching and learning at the school building and district levels is documented and discussed each spring Y N P
- The accomplishments of teachers and administrators in this regard are celebrated and shared with the school community Y N P
- Overall assessment: ( ) Approval ( ) Conditional approval ( ) Disapproval

**Implementation and Staff Development Plan**

Earlier in this report, this panel recommended that the guidelines just presented be used by the LDE to strengthen and standardize local teacher evaluation programs over a three year period. An implementation and staff development plan is provided below to guide this process.

**September/October 1992.** The LDE and the Regional Service Center (RSC) staff as well as superintendents and personnel evaluation contact persons are oriented to:

- a) the Louisiana Guidelines for Teacher Evaluation Programs; and
- b) the procedure for using these guidelines to strengthen and standardize teacher evaluation programs at the local school district level.

Teachers and administrators are provided a copy of the Louisiana Guidelines for Teacher Evaluation Programs and are informed how these guidelines will be used to strengthen and standardize local teacher evaluation programs.

**October 1992.** The local education agencies (LEAs) form an 8 to 12 member teacher evaluation steering committee. The superintendent (or his/her designee) and the personnel evaluation contact person will serve on this committee. Two other members of this committee, a teacher and a building administrator, will be selected to serve as the LEA's teacher evaluation resource persons. These two resource persons, the superintendent (or his/her designee) and the personnel evaluation contact person will comprise the LEA's Core Team for teacher evaluation. This Core Team will be trained by the LDE through the RSCs to serve as a teacher evaluation staff development resource to the local school district and its steering committee. Also, the two resource persons on this team will assist the LDE in its review of the teacher evaluation programs of other school districts in the service region.

**October/November 1992.** The LDE conducts regional workshops to orient the LEA Core Teams to:

- a) the Louisiana Guidelines for Teacher Evaluation Programs; and
- b) the procedures for reviewing current teacher evaluation programs in light of these guidelines.

**December 1992.** The Core Team orients the LEA's teacher evaluation steering committee to:

a) the Louisiana Guidelines for Teacher Evaluation Programs; and

b) the procedures for reviewing its current teacher evaluation program in light of these new guidelines. Then this steering committee develops and implements a plan to review and revise its teacher evaluation program. The revision plan includes:

a list of the modifications/changes needed,

a process and timeline for making these modifications/changes,

a procedure for sharing the work of the committee with other teachers and administrators in the school district for their reaction and feedback.

**January 1993.** The local steering committee completes its review of the LEA's teacher evaluation program and submits a Teacher Evaluation Self-Assessment Report to the LDE by February 1, 1993. This is a self-assessment to the extent to which the LEA believes it complies with each of the Louisiana Guidelines for Teacher Evaluation Programs. The steering committee shares the essence of this Self-Assessment Report with other teachers and administrators in the school district.

**February/March 1993.** The LDE conducts regional workshops to orient the LEA teacher evaluation resource persons to its process for reviewing the Teacher Evaluation Self-Assessment Reports submitted by the local teacher evaluation steering committees. The LDE proceeds with its review of the Teacher Evaluation Self-Assessment Reports. The Self-Assessment Report submitted by each local teacher evaluation steering committee is examined by a three member State Review Team comprised of an LDE staff member and a teacher and an administrator resource person from another school district. The State Review Team examines the steering committee's Self-Assessment Report to determine the extent to which the LEA's teacher evaluation program complies with the Louisiana Guidelines for Teacher Evaluation Programs. The results of this review are summarized in a Teacher Evaluation Status Report that is shared later with the LEA.

**March 1993.** The LDE completes its review of the Teacher Evaluation Self-Assessment Reports and shares the Teacher Evaluation Status Reports with the LEAs. Then the local teacher evaluation steering committee reviews its LEA's Status Report. Once the steering committee completes this review, it can meet with the LDE staff if it wishes to discuss any aspects of the Status Report or pose any questions it has about discrepancies between the Status Report and the LEA's Self-Assessment Report.

**March-May, 1993.** The local steering committee follows its plan for making changes/modifications in its teacher evaluation program. This process includes trying out any new techniques or approaches to teacher evaluation with a small sample of teachers to determine whether they would have the impact desired. Also during this period, the LDE conducts a five-day training program for Core Team members through the RSCs. The purpose of this program is to help teachers and administrators to develop the appropriate understanding of critical teacher evaluation skills to be able to go back to their school districts to train their colleagues in these skills. Topics addressed in this program would include analyzing teaching using the Louisiana Components of Effective Teaching, classroom observation, conferencing, writing effective evaluation reports, developing professional growth plans, and facilitating self-evaluation.

**June 1993.** The local steering committee completes its plan for implementing the local teacher evaluation program during the 1993-94 school year. Then the committee:

a) orients its teachers and administrators to this plan; and

b) submits this plan to the LDE by June 15, 1993 as part of its yearly Personnel Evaluation Report.

**July-August 1993.** The local steering committee conducts appropriate workshops with teachers and evaluators to prepare them for the implementation of the teacher evaluation program during the 1993-94 school year.

**September 1993-May 1994.** The local steering committee implements its revised teacher evaluation program and meets monthly to monitor its implementation. Implementation is supported by an ongoing staff development program for teachers and administrators.

**November 1993 and March 1994.** The State Review Teams conduct fall and spring site visits. During these visits the local steering committee meets with its Review Team to provide an update on the progress it has made in implementing and strengthening its teacher evaluation program. Also, the steering committee indicates what staff development resources it would like to see provided through the RSC to support the further implementation of its teacher evaluation program. The Review Team prepares a Site Visit Report to document the outcomes of each visit and shares this report with the LDE and RSC staff.

**June 1994.** The local Steering committee reviews what it has accomplished during the 1993-94 school year and refines its plan for implementing the local teacher evaluation program during the 1994-95 school year. Then the committee:

a) orients its teachers and administrators to this plan; and

b) submits this plan to the LDE by June 15, 1994 as part of its yearly Personnel Evaluation Report.

**July-August 1994.** The local steering committee conducts appropriate workshops with teachers and evaluators to prepare them for the implementation of the teacher evaluation program during the 1994-95 school year.

**September 1994-May 1995.** The local steering committee implements its refined teacher evaluation program and meets monthly to monitor its implementation. Implementation is supported by an ongoing staff development program for teachers and administrators.

**November 1994 and March 1995.** The State Review Teams conduct fall and spring site visits. During these visits the local steering committee meets with its Review Team to provide an update on the progress it has made in implementing and strengthening its teacher evaluation program. Also, the steering committee indicates what staff development resources it would like to see provided through the RSC to support the further implementation of its teacher evaluation program. The Review Team prepares a Site Visit Report to document the outcomes of each visit and shares this report with the LDE and RSC staff.

**June 1995.** The local steering committee reviews what it has accomplished during the 1994-95 school year and refines its plan for implementing the local teacher evaluation program during the 1995-96 school year. Then the committee:

a) orients its teachers and administrators to this plan; and

b) submits this plan to the LDE by June 15, 1995 as part of its yearly Personnel Evaluation Report.

#### **Building a Capacity for Staff Development**

The Implementation and Staff Development Plan just presented requires that the LDE build a capacity for staff development through its LEAs and RSCs. In building such a capacity it is important that training be provided by personnel that are both knowledgeable in techniques of teacher evaluation as well as in the process of effective staff development. In summary, there is a need to identify or develop a cadre of good people to conduct the training necessary to strengthen local teacher evaluation practices.

While some out-of-state consultants could be used, it is important to develop a local, Louisiana capacity for staff development in teacher evaluation. This could be accomplished by meeting with the deans in schools of education to find out what staff development resources could be provided through higher education. In addition, superintendents could be polled to obtain their recommendations of people in their districts who are doing some good things in teacher evaluation that could be called on to do training. Depending on what resources are identified through contacts with deans and superintendents, a decision would need to be made as to whether there is a need to develop further staff development resources for teacher evaluation through a trainer of trainers program for select LEA or RSC personnel.

In addition to identifying staff development resources, it is important to determine where the training will take place. Certainly, much of the training will be conducted at the RSCs and in the LEAs. Also, consideration should be given to whether some professional development centers might be established for training in teacher evaluation. These centers would be schools where good teacher evaluation is being practiced. Teachers and administrators would come to these schools to strengthen their evaluation skills through direct involvement in the teacher evaluation process under the supervision of knowledgeable practitioners.

In concluding, this panel believes it is critical that the LDE build an adequate capacity for staff development in teacher evaluation to support its initiative to strengthen local teacher evaluation practices. Also, the LDE must develop a long range plan which clearly conveys to the LEAs those staff development resources that will be available to support local efforts to strengthen teacher evaluation programs over the next three years.

#### **Developing a Process for the Review and Approval of Local Teacher Evaluation Programs**

The focus of the first year of this plan to strengthen and standardize local teacher evaluation programs is on the review and approval of such programs. This panel recommends that an efficient and effective process be developed by the LDE for the local review as well as state approval of teacher evaluation programs in light of the Louisiana Guidelines for Teacher Evaluation Programs. More specifically, the panel recommends that a *Teacher Evaluation Self-Assessment Report* such as the one presented in Exhibit 1 be developed to facilitate the local review of teacher evaluation programs. This Report would be completed first by individual steering committee members. Next their individual ratings for each guideline would be discussed and consensus would be reached as a committee. Then the LEA would submit to the LDE a *Teacher Evaluation Self-*

*Assessment Report* that represents the consensus opinion of its teacher evaluation steering committee.

As noted earlier, the *Teacher Evaluation Self-Assessment Report* submitted by an LEA would be examined by a three-member state review team comprised of an LDE staff member and two teacher evaluation resource persons, a teacher and an administrator from another school district. This team would share the results of its review with the LEA using a *Teacher Evaluation Status Report* such as the one presented in Exhibit 2. The review team's assessment of an LEA's teacher evaluation program with respect to the Louisiana Guidelines for Teacher Evaluation Programs would consist of a consensus rating as well as comments regarding the program's strengths and aspects that might be improved. If the review team does not approve the LEA's teacher evaluation program with respect to a particular guideline, it must justify this decision clearly in writing.

Once the LEA receives its *Teacher Evaluation Status Report*, it has 30 working days to respond to the LDE, if either it does not agree with the team's assessment or it wishes to submit a plan to comply with any guidelines for which its teacher evaluation program was not approved. In situations where an LEA submits such a plan, the state review team for that school district would be reconvened to review this plan and to submit a revised *Teacher Evaluation Status Report*. Also, the state review team may be reconvened to deal with those situations where the LDE does not agree with the team's assessment.

#### **Exhibit 1**

##### **Teacher Evaluation Self-Assessment Report**

This report has been developed to help your local school districts to assess the status of its teacher evaluation program in light of the new Louisiana Guidelines for Teacher Evaluation Programs. You are being asked to complete this report as a member of your school district's teacher evaluation steering committee. Later your steering committee will meet to

- a) discuss the responses of committee members and
- b) reach consensus as to the status of your school district's teacher evaluation program with respect to each guideline.

The Louisiana Guidelines for Teacher Evaluation Programs are listed in the subsequent section of this report. Following each guideline are criteria for determining whether a school district complies with that guideline. Please review each of the criteria and circle the appropriate response. Circle . . .

Y for Yes, if you believe your school district meets the criterion,

N for No, if you believe your school district does not meet the criterion, or

P for Partial, if you believe your school district has a plan for meeting the criterion.

If you circle Y, please indicate where evidence can be found to support your rating. For example, you may simply refer to a section of your teacher evaluation plan (see pages 7-8 of District Plan). If you circle P, either attach your school district's plan for meeting that criterion or indicate in the evidence section where it can be found (Example: see page 12 of our School Improvement Plan for 1992-93).

After you have rated each of the criteria for a particular guideline, provide an overall assessment of whether you believe your school district's teacher evaluation program should be approved with respect to that guideline. Check...

**Approval**, if your school district meets all the criteria for that guideline,

**Conditional Approval**, if your school district has met some of the criteria and has a plan for meeting the others, or

**Disapproval**, if your school district does not meet all of the criteria for that guideline and has no plan to rectify the situation.

After you have assessed the status of your school district's teacher evaluation program with respect to a particular guideline, please make a note in the "Comments" section of any issues or questions you want to address with your teacher evaluation steering committee when you meet later to discuss your ratings.

Your cooperation and assistance in carefully completing this report are appreciated. Thank you!

**1. Focus on Education Improvement**

The teacher evaluation program is well grounded in the local school district's educational philosophy and goals. An overview of the district's philosophy and priority educational goals is provided and related to the philosophy and purposes of teacher evaluation. A clear message is provided as to how teacher evaluation will be used to better facilitate the attainment of short and long term goals for educational improvement at the district and school building levels.

**Compliance criteria:**

District's philosophy and priority educational goals are related to the philosophy and purposes of teacher evaluation Y N P

Evidence: \_\_\_\_\_  
Teacher evaluation is related to goals for educational improvement at the district level Y N P

Evidence: \_\_\_\_\_  
Teacher evaluation is related to goals for educational improvement at the school building level Y N P

Evidence: \_\_\_\_\_  
Overall assessment: ( ) Approval ( ) Conditional approval ( ) Disapproval

Comments:

(...The remaining guidelines will be presented in this same format on the subsequent pages of the Report...)

**Exhibit 2**

**Teacher Evaluation Status Report**

**Overall Summary**

District: \_\_\_\_\_ Review Team: \_\_\_\_\_

Date: \_\_\_\_\_

**1. Focus on Educational Improvement**

Overall assessment: ( ) Approval ( ) Conditional approval ( ) Disapproval

**2. Staff Involvement in the Teacher Evaluation Process**

Overall assessment: ( ) Approval ( ) Conditional approval ( ) Disapproval

**3. Philosophy and Purposes of Teacher Evaluation**

Overall assessment: ( ) Approval ( ) Conditional approval ( ) Disapproval

**4. Accountability Relationships**

Overall assessment: ( ) Approval ( ) Conditional approval ( ) Disapproval

**5. Evaluation Criteria**

Overall assessment: ( ) Approval ( ) Conditional approval ( ) Disapproval

**6. The Classroom Observation Process**

Overall assessment: ( ) Approval ( ) Conditional approval ( ) Disapproval

**7. Developing the Professional Growth Plan**

Overall assessment: ( ) Approval ( ) Conditional approval ( ) Disapproval

**8. Teacher Self-Evaluation**

Overall assessment: ( ) Approval ( ) Conditional approval ( ) Disapproval

**9. The Evaluation Period**

Overall assessment: ( ) Approval ( ) Conditional approval ( ) Disapproval

**10. Information Included in the Teacher Evaluation Process**

Overall assessment: ( ) Approval ( ) Conditional approval ( ) Disapproval

**11. Coordination with the Induction of Intern Teachers**

Overall assessment: ( ) Approval ( ) Conditional approval ( ) Disapproval

**12. Intensive Assistance for Experienced Teacher**

Overall assessment: ( ) Approval ( ) Conditional approval ( ) Disapproval

**13. Procedures for Resolving Conflict**

Overall assessment: ( ) Approval ( ) Conditional approval ( ) Disapproval

**14. Staff Development for Teacher Evaluation**

Overall assessment: ( ) Approval ( ) Conditional approval ( ) Disapproval

**15. Impact of the Teacher Evaluation Process**

Overall assessment: ( ) Approval ( ) Conditional approval ( ) Disapproval

**General Comments:**

Name: \_\_\_\_\_ Title: \_\_\_\_\_  
Signed: \_\_\_\_\_ Louisiana Department of Education

**Teacher Evaluation Status Report**

**Analysis by Guideline**

**1. Focus on Educational Improvement**

**Compliance criteria:**

District's philosophy and priority educational goals are related to the philosophy and purposes of teacher evaluation Y N P

Teacher evaluation is related to goals for educational improvement at the district level Y N P

Teacher evaluation is related to goals for educational improvement at the school building level Y N P

Overall assessment: ( ) Approval ( ) Conditional approval ( ) Disapproval

**Comments:**

(...The remaining guidelines will be presented in this same format on the subsequent pages of the Report...)

Carole Wallin  
Executive Director

**DECLARATION OF EMERGENCY**

**Department of Health and Hospitals  
Office of the Secretary  
Bureau of Health Services Financing**

(Editor's Note: The following Emergency Rule, which appeared on page 832 of the August 20, 1992 *Louisiana Register*, is being republished to correct a typographical error.)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following rule.

On July 1, 1992 the department published an emergency rule expanding coverage under options provided for under the Social Security Act. The emergency rule is being redeclared to clarify the options which are being utilized including Section 1905 coverage of Long Term Care Services under the spend down medically needy program.

Section 4723 of Public law 101-508 authorizes states to provide Medicaid health care coverage to individuals whose incomes are in excess of federal limits based on payment of a premium equal to the income above the federal income standard. Additionally, under Section 1905 of the Social Security Act states may cover Long Term Care Services for the medically needy whose incomes are reduced below federal limits as a result of incurred medical expenses. Under these statutory options, Medicaid of Louisiana is expanding coverage to aged, blind, and disabled individuals in nursing facilities whose incomes are above the federal CAP of \$1,266 per month but below the cost of care. While other individuals may also benefit from this expansion of coverage, this option will primarily benefit patients of nursing facilities whose incomes are insufficient to cover the cost of care. It is projected that 300-500 nursing facility patients, currently receiving limited state funded insurance coverage will benefit from this coverage expansion. While Medicaid expenditures

will increase by approximately \$5 million per year, total state expenditures will decline from savings in the cost providing 100 percent state funded reimbursement of incurred medical expenditures. This emergency rule was effective July 1, 1992 and is being adopted to enhance federal funding through refinancing of state expenditures. This rule is effective for the maximum period allowed under R.S. 49:954(B) et seq.

#### EMERGENCY RULE

Individuals applying for Medicaid health care coverage who would otherwise be ineligible based on excess income, shall be allowed to pay a premium equal to the amount of income in excess of the maximum income authorized to purchase Medicaid coverage in accordance with Section 1903(f) of the Social Security Act and Louisiana's State Plan for Medicaid. Provision of Medicaid health care coverage through premium purchase shall be governed by all applicable federal guidelines and the state's approved Title XIX Plan Agreement with the Health Care Financing Administration.

The state's Medically Needy coverage shall include Long Term Care Services provided by enrolled facilities.

J. Christopher Pilley  
Secretary

### DECLARATION OF EMERGENCY

#### Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following rule in the Medical Assistance Program.

Mental Health Rehabilitation Services were adopted as an optional part of the covered services provided by Medicaid of Louisiana effective July 1, 1989. Recent interpretations by the Health Care Financing Administration regarding the definition of these services requires that changes be made to the program in order to comply with federal regulations. This emergency rule is effective for the maximum period allowed under R.S. 49:954(B) et seq. It is estimated that the cost of these programmatic changes will be \$6 million.

#### EMERGENCY RULE

Effective September 8, 1992 the Bureau of Health Services Financing shall define as Medicaid services, the following mental health rehabilitation services for mentally ill adults or emotionally disturbed children (as defined by Division of Mental Health) which are necessary to reduce the disability resulting from mental illness and to restore the individual to his/her best possible functioning level in the community:

##### I. Mental Health Rehabilitation Management

Mental health rehabilitation services must be provided according to a mental health rehabilitation plan developed by a licensed professional who is a QMHP, in conjunction with a physician. The attending physician must document that the recipient meets the definition of disability required to receive

this service, and must order the rehabilitation services on a mental health rehabilitation plan. A mental health rehabilitation management agency coordinates and manages rehabilitation plans presented by referred recipients, and develops initial plans for those clients referred without one. Mental health rehabilitation management providers follow-up on services provided to determine their effectiveness, and assist the attending physician who must review the progress and recertify the recipient for services at least quarterly. Management providers are responsible for referral to other providers, such as case management for the chronically mentally ill, if the recipient has identified needs which are not treatable by mental health rehabilitation services. Authorized services must be medically necessary and reasonable in amount and the management provider is responsible for the judicious scheduling of them. Mental health rehabilitation management services may be provided anywhere in the community. The only excluded settings are mental institutions (including distinct part psychiatric units). Services can be delivered in any setting that is convenient for both the client and the staff member, that affords an adequate therapeutic environment, and that protects the client's rights to privacy and confidentiality. Mental health rehabilitation services are to be provided within the limits set for each procedure (including some which may be provided by more than one provider) and according to the individual limits established in the rehabilitation plan developed by the QMHP according to physician's orders. Services shall be billed per occurrence and reimbursement shall be at a negotiated rate established by the Bureau of Health Services Financing based on prevailing rates and the cost of the service.

##### II. Mental Health Rehabilitation Counseling and Therapy

Counseling and therapy involves a series of face-to-face structured, time limited, and verbal interactions between the counselor or therapist and person(s) receiving services. The purpose is to attain goals and objectives specified in the mental health rehabilitation plan. All counseling and therapy is provided within the scope allowed by the license of the respective mental health professions. This component of mental health rehabilitation services also includes treatment integration which is performed by para-professionals under the direction of a QMHP. Services can be delivered in any setting that is convenient for both the client and staff member, that affords an adequate therapeutic environment, and that protects the client's rights to privacy and confidentiality. The only excluded settings are hospitals. Mental health rehabilitation services are to be provided within the limits set for each procedure (including some which may be provided by more than one provider) and according to the individual limits established in the rehabilitation plan developed by the QMHP according to physician's orders. Services shall be billed per unit of time (except for consultations which are reimbursed on a per occurrence basis) and reimbursement shall be at a negotiated rate established by the Bureau of Health Services Financing based on prevailing rates and the cost of the service.

##### III. Mental Health Rehabilitation Psychosocial Skills Training

These paraprofessional services are provided by appropriately trained and supervised staff to help integrate therapeutic principles into the daily activities of the mental health rehabilitation recipient. The purpose is to achieve the restora-

tion, reinforcement and enhancement of the skills and/or knowledge necessary for the person to achieve the maximum reduction of psychiatric symptoms, to increase the level of his/her age appropriate and/or independent functioning, and to successfully assimilate into the community. Mental health rehabilitation services are to be provided within the limits set for each procedure (including some which may be provided by more than one provider) and according to the individual limits established in the rehabilitation plan developed by the QMHP according to physician's orders. These services may be provided in a number of community settings, only hospital settings are excluded. Services shall be billed per unit of time (except for consultations which are reimbursed on a per occurrence basis) and reimbursement shall be at a negotiated rate established by the Bureau of Health Services Financing based on prevailing rates and the cost of the service.

#### IV. Medication Services

These professional rehabilitation support services are provided to assess or monitor a person's status in relation to treatment with medication, to instruct the client, family, significant others or caregivers of the expected effects of therapeutic doses of medications or to administer prescribed medication when ordered by the supervising physician as part of a mental health rehabilitation plan. Medication administration alone does not qualify as a mental health rehabilitation service. It may be included in a rehabilitation plan only when it is necessary to enable a recipient to make productive use of other mental health rehabilitation services.

Mental health medication management services may be provided anywhere in the community. The only excluded settings are hospitals and nursing facilities. Services can be delivered in any setting that is convenient for both the client and staff member, that affords an adequate therapeutic environment, and that protects the client's rights to privacy and confidentiality. Mental health rehabilitation services are to be provided within the limits set for each procedure and according to the individual limits established in the rehabilitation plan developed by the QMHP according to physician's orders. Services shall be billed per occurrence and reimbursement shall be at a negotiated rate established by the Bureau of Health Services Financing based on prevailing rates and the cost of the service.

#### V. Mental Health Rehabilitation Crisis Services

These professional rehabilitation services are to provide immediate emergency intervention with the client, family, legal guardian, and/or significant others to ameliorate a client's maladaptive emotional/behavioral reaction. Service is designed to resolve the crisis and develop symptomatic relief, increase knowledge of where to turn for help at a time of further difficulty, and facilitate return to pre-crisis routine functioning.

Crisis services may be provided anywhere in the community. The only excluded settings are hospitals. Services can be delivered in any setting that is convenient for both the client and staff member, that affords an adequate therapeutic environment, and that protects the clients rights to privacy and confidentiality. Mental health rehabilitation services are to be provided within the limits set for each procedure. Crisis services are not included in the mental health rehabilitation plan, however, the use of physical restraint and medication management must be authorized in advance by a physician, and all crisis services must be reported to the recipient's

rehabilitation management provider for documentation in the recipient's record within 24 hours of being provided. Services shall be billed per unit of time and reimbursement shall be at a negotiated rate established by the Bureau of Health Services Financing based on prevailing rates and the cost of the service.

#### Standards for Participation

The provider of rehabilitation services for the mentally ill adult or emotionally disturbed child (as defined by Division of Mental Health) must:

A. enter into a provider agreement with the Bureau of Health Services Financing, and abide by the provisions of the Provider Agreement and other applicable state and federal regulations related to enrollment as a Medicaid provider;

B. must be certified as a Comprehensive Community Mental Health Services Provider by the Division of Mental Health; or be licensed in the appropriate category to provide the services by the Division of Licensing and Quality Assurance of the Division of Social Services;

C. ensure that all rehabilitative services are provided by or under the supervision of a Qualified Mental Health Professional (QMHP) as defined by the Division of Mental Health as follows:

1. a physician who is duly licensed to practice medicine in the State of Louisiana and has completed an accredited training program in psychiatry; or

2. a psychologist who is licensed as a practicing psychologist under the provisions of state law; or

3. a social worker who holds a master's degree in social work from an accredited school of social work and is a board certified social worker under the provisions of R.S. 37:2701-2718; or

4. a nurse who is licensed to act as a registered nurse in the state of Louisiana by the Board of Nursing and:

a. is a graduate of an accredited master's level program in psychiatric mental health nursing with two years experience; or has a master's degree with two year's of supervised experience in the delivery of mental health services; or

b. has four years of experience in the delivery of mental health services; or

5. a licensed professional counselor who is licensed as such under the provision of state law and has two years experience in the delivery of mental health services; or

6. an individual with a master's degree in a human services field or education and two years of supervised experience in the delivery of mental health services; or

7. an individual with a baccalaureate degree in a human services field or education and four years of supervised experience in the delivery of mental health services.

D. Ensure that services are provided in accordance with a mental health rehabilitation plan approved by a licensed physician and a qualified mental health professional;

E. Ensure that sufficient records to document the rehabilitative services being provided to the mentally ill adult or emotionally disturbed child under this provision are maintained in accordance with state and federal regulations;

F. Comply with state and federal regulations regarding the completion and submittal of cost reports and audit of same.

G. Comply with state and federal regulations regarding subcontracts.



**Reimbursement**

Reimbursement for rehabilitative services to mentally ill adults or emotionally disturbed children shall be in accordance with a negotiated rate per unit of time or a fee for service established by the Bureau of Health Services Financing based on prevailing rates and the cost of providing the service. All services are reimbursable only when provided in accordance with a mental health rehabilitation plan approved by a licensed physician and a qualified mental health professional, with the exception of crisis care services which may be recommended by the qualified mental health professional or physician on duty during the crisis.

Copies of this rule and all other Medicaid rules and regulations are available at parish Offices of Family Security for review by interested parties.

J. Christopher Pilley  
Secretary

**DECLARATION OF EMERGENCY**

**Department of Social Services  
Office of Family Support**

Food Stamp Program

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following rule effective September 1, 1992 in the Food Stamp Program.

Emergency rulemaking was necessary to establish the emergency food assistance program for victims of disaster in Louisiana.

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 3, Food Stamp Program.

**Title 67**

**SOCIAL SERVICES**

**Part III. Office of Family Support**

**Subpart 3. Food Stamps**

**Chapter 17. Administration**

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**Subchapter C. Emergency Food Assistance Program for Disaster Victims**

A. Under the authority of Section 5(h)(1) of the Food Stamp Act of 1977 and 7 CFR Part 280, the Department of Social Services, Office of Family Support, does hereby establish an Emergency Food Assistance Program for Victims of Disaster.

B. This program provides emergency food stamp assistance to households in an area which has been included in a food stamp disaster declaration. The secretary of the U.S. Department of Agriculture (USDA), or his designee, determines the areas to be included in such a declaration, the temporary eligibility standards, grant amounts, and duration of the program. The public will be informed of said determinations via potpourri notice in the *Louisiana Register*.

C. In order for a parish or community to be eligible for inclusion in a food stamp disaster declaration, the following

criteria must be met:

1. Normal commercial channels for food distribution were disrupted by the disaster.
2. Normal food distribution channels were restored.
3. The normal, ongoing Food Stamp Program is unable to expeditiously handle the volume of households affected by the disaster.

**AUTHORITY NOTE:** Promulgated in accordance with 7 CFR 280 and Section 5(h)(1) of the Food Stamp Act of 1977.

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Office of Family Support, LR 18:

Gloria Bryant-Banks  
Secretary

**DECLARATION OF EMERGENCY**

**Department of Social Services  
Office of Family Support**

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following rule effective September 1, 1992 in the Individual and Family Grant (IFG) Program.

Emergency rulemaking was necessary to amend the maximum grant amount and the flood insurance amounts in the Individual and Family Grant Program.

The Department of Social Services, Office of Family Support, proposes to amend LAC 67:III, Subpart 10 in the Individual and Family Grant Program.

**Title 67**

**SOCIAL SERVICES**

**Part III. Office of Family Support**

**Subpart 10. Individual and Family Grant Program**

**Chapter 65. Application, Eligibility, and Furnishing Assistance**

**Subchapter C. Need and Amount of Assistance  
§6501. Maximum Grant Amount**

A. The maximum grant amount in the IFG Program for federal fiscal year October 1991 through September 1992 is \$11,500.

B. The amount will be adjusted at the beginning of each federal fiscal year to reflect changes in the Consumer Price Index for All Urban Consumers published by the U. S. Department of Labor. Notice of the applicable grant amount changes will be published as potpourri in the *Louisiana Register*.

**AUTHORITY NOTE:** Promulgated in accordance with 44 CFR 206.131 and F.R. 54:11610 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Office of Eligibility Determinations 15:744, LR 18: (September 1989).

**§6502. Flood Insurance**

A. In order to be eligible for assistance under the IFG Program, an individual or family must agree to purchase adequate flood insurance and maintain such insurance for 3 years or as long as they live in the residence to which the grant assistance relates, whichever is less.

B. For federal fiscal year October 1991 through September 1992, the dollar value of the required flood insurance

policy for housing and personal property grants where the applicant resides in a flood zone is \$7,000 building and \$4,500 contents for a homeowner, and \$11,500 contents for a renter.

C. These amounts will be adjusted at the beginning of each federal fiscal year to reflect changes in the Consumer Price Index for All Urban Consumers published by the U.S. Department of Labor. Notice of the applicable flood insurance amounts for housing and personal property will be published as potpourri in the *Louisiana Register*.

**AUTHORITY NOTE:** Promulgated in accordance with 44 CFR 206.131 and F.R. 54:11610 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 15:744 (September 1989), amended in LR 17:888 (September 1991).

Gloria Bryant-Banks  
Secretary

### **DECLARATION OF EMERGENCY**

#### **Department of Transportation and Development Crescent City Connection Division**

The Department of Transportation and Development, Crescent City Connection Division, has exercised the emergency provisions of the Administrative Procedures Act, R.S. 49:953(B) to adopt the following rule effective August 21, 1992 for the passage of firemen and firefighting equipment on and over the bridges and ferries operated by the Crescent City Connection Division.

Emergency rule making is necessary to comply with Act 1072 of 1992, to carry out a program to provide free an unhampered passage of firemen and firefighting equipment on and over all toll bridges and ferries.

#### **EMERGENCY RULE**

##### **Purpose**

All firemen shall have free and unhampered passage on and over the Crescent City Connection bridges, the Gretna/Jackson Avenue ferry, the Algiers/Canal Street ferry and the Lower Algiers/Chalmette ferry.

##### **Procedure**

A. All firemen as defined in R.S. 39:1991(A) shall present for inspection by the toll collector, an identification card containing a photographic picture of the fireman. The identification card must be issued by the municipality, parish or district as referred to in R.S. 39:1991(A).

B. All firemen shall sign a register at the toll booth or station, and provide the name of agency, municipality, parish or district for which they are employed or engaged.

C. After compliance with A and B above, free and unhampered passage will be granted to the fireman.

Alan J. LeVasseur  
Executive Director

### **DECLARATION OF EMERGENCY**

#### **Department of Transportation and Development Crescent City Connection Division**

The Department of Transportation and Development, Crescent City Connection Division, has exercised the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following rule effective August 21, 1992 for the Student Vehicle Pass Program.

Emergency rule making is necessary to comply with Act 904 of 1992, amending and reenacting R.S. 17:157, to carry out a program to provide free passage of students who operate vehicles over all toll bridges and ferries.

#### **EMERGENCY RULE**

##### **Purpose**

In addition to free passage of students in clearly marked school busses as is now provided, any motorized vehicle operated by a student, attending a secondary school, shall have free passage over the Crescent City Connection bridges, the Gretna/Jackson Avenue ferry, the Algiers/Canal Street ferry, and the Lower Algiers/Chalmette ferry, during the hours of 7 a.m. through 9:30 a.m., and 2:30 p.m. through 6 p.m., for traveling to and from school.

##### **Application**

A. A legal parent or guardian shall apply to the Crescent City Connection Division for each student for each school year, and shall certify to the following:

1. the address of the student's domicile;
2. the address of the school attended by the student;
3. the student regularly operates a private vehicle to travel to and from school;

4. the geographic location of the school in relation to the student's domicile requires travel across the facilities stated in the above paragraph pertaining to purpose.

B. The principal, headmaster or administrator of the school attended by the student, shall certify on the application as to the enrollment of the student at the school and the length of the school year.

##### **Vehicle Passes**

A. Upon approval of an application, the Crescent City Connection Division shall issue vehicle passes for use by the student.

B. The vehicle passes shall be for the personal use of the student, while operating a motor vehicle, and are not transferable.

C. The vehicle passes shall not be used for any other purpose other than crossing the bridges or ferries for required attendance at school.

D. Lost, stolen or damaged passes will not be replaced.

##### **Loss of Privilege**

Any prohibited use of Student Vehicle Passes will result in the loss of the privilege to obtain and use passes and/or actions provided by law.

Alan J. LeVasseur  
Executive Director

## DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission

Alligator Hunting Season, 1992

In accordance with the emergency provisions of the declaration of emergency passed by the Louisiana Wildlife and Fisheries Commission on July 7, 1992 which provides that the secretary of the Department of Wildlife and Fisheries has the authority to close, extend or reopen the season as biologically justifiable, the opening and closing dates of the 1992 wild alligator harvest season are hereby extended as follows:

September 10 through October 4, 1992.

This emergency adoption is necessary to allow department biologists adequate time to assess the biological impacts of Hurricane Andrew and perform all of the related activities necessary to conduct a successful alligator harvest.

Joe L. Herring  
Secretary

## DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission

Alligator Regulations (LAC 76:V.701)

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, and under the authority of R.S. 56:115, 259, 261, 262, 263 and 280, the Wildlife and Fisheries Commission adopts the following emergency rule as of September 3, 1992, amending and reenacting Title 76, Chapter 7, Section 701.

The Wildlife and Fisheries Commission finds that imminent peril to the public welfare exists because the present rule is no longer completely valid because of recent legislative changes concerning the alligator program adopted with the recent signing into law of HB923, HB1314 and SB647, rulings of state courts, pending federal litigation and concerns of the U.S. Fish and Wildlife Service. These changes could drastically impact a thriving \$30 million Louisiana industry if action is not immediately taken. Implementation of the emergency rule will permit uninterrupted continuation of this valuable renewable natural resource program. The Wildlife and Fisheries Commission does hereby authorize and delegate to the secretary of the Department of Wildlife and Fisheries, the authority to take any and all necessary steps on behalf of the commission to renew this emergency declaration if needed to ensure the final rule is promulgated, including but not limited to filing of the fiscal and economic impact statements, the filing of the notice of intent and preparation of reports and correspondence to other agencies of government.

## Title 76

### WILDLIFE AND FISHERIES

#### Part V. Wild Quadrupeds and Wild Birds

#### Chapter 7. Alligators

#### §701. Alligator Regulations

The Department of Wildlife and Fisheries does hereby establish regulations governing the harvest of wild populations of alligators and alligator eggs, raising and propagation of farmed alligators tanning of skins and regulations governing the selling of hides, alligator parts and farm raised alligators. The administrative responsibility for these alligator programs shall rest with the department secretary; the assistant secretary, Office of Wildlife; and the Fur and Refuge Division.

A. Purpose. These regulations are to govern the taking, possession, selling, raising and propagation of alligators statewide, both in the wild and in captivity. They are enacted to prevent depletion or waste, while enhancing utilization of this renewable resource. These regulations are based upon scientific study and population monitoring and are consistent with federal requirements to qualify alligators and alligator parts from Louisiana for international export under the Convention on International Trade in Endangered Species of Wild Fauna and Flora. Alligators in Louisiana are not endangered but their similarity of appearance to endangered crocodylian species requires controls on commerce to minimize illegal trafficking of these species and to regulate and maintain the wild population of alligators. These regulations provide rules to enhance alligator farming operations; establish the methods of alligator harvest; establish minimum facility requirements for alligator farming; regulate commerce in alligators, eggs and parts; streamline necessary reporting requirements; and, establish a regulated nuisance alligator control program.

B. Definitions. The following words and phrases for purposes of these regulations shall have the meaning ascribed to them in this Section, unless the context wherein the particular word or phrase is used clearly indicates a different meaning:

*Alligator* — American alligator (*Alligator mississippiensis*).

*Alligator Egg Collection Permit* — A permit issued by the department allowing for the collection of alligator eggs on designated properties described as part of the permit. The permit will be signed by the secretary or his designee, the permittee and the landowner/land manager.

*Alligator Farm (nongame quadruped)* — An enclosed area, constructed so as to prevent the ingress and egress of alligators from surrounding public or private lands or waters and meeting other specifications and requirements set by the department, where alligators are bred, propagated, or raised as a commercial enterprise under controlled conditions. "Alligator Farm" also includes alligator ranching wherein eggs are collected from the wild, and raised, pursuant to departmental license or permit.

*Alligator Farmer* — A properly licensed person who raises alligators under controlled conditions which prohibit free movement of the animals onto and off of the farm or controlled area, or who collects and sells wild alligator eggs, and who may harvest alligators under the supervision of the department. An alligator farmer must possess a valid nongame quadruped breeder's license.

**Alligator Hide Tag** — An official CITES serially numbered tag issued by the department.

**Alligator Hunter** — A properly licensed resident or nonresident person who takes wild alligators. Resident hunters are divided into four classes:

a. **Commercial** — Anyone who is licensed by the department to take wild alligators after having filed application(s) approved by the department which authorize the issuance of alligator hide tags to him.

b. **Helper** — Anyone who is licensed by the department to assist a commercial hunter during alligator harvest activities; alligator hide tags cannot be issued to a helper license holder.

c. **Sport** — Anyone who is licensed by the department and guided by a commercial hunter during alligator harvest activities; alligator hide tags cannot be issued to a sport license holder.

d. **Nuisance** — A licensed alligator hunter who is contracted or otherwise selected by the department to remove designated nuisance alligators and who can be assigned alligator hide tags by the department.

**Alligator Part** — Any part of the carcass of an alligator, except the hide and includes the bony dorsum plates, if detached from the tagged alligator hide.

**Alligator Parts Dealer** — Any properly licensed person who deals in alligator parts other than hides and who:

a. buys unprocessed alligator parts from an alligator hunter, another parts dealer, or an alligator farmer for the purpose of resale; or

b. manufactures within the state non-edible alligator parts into a finished product; or

c. purchases unprocessed alligator meat or processes alligator meat for wholesale or retail sale.

**Alligator Parts Retailer** — Any properly licensed person who purchases for retail sale finished alligator parts made from parts other than hides.

**Alligator Shipping Label** — A serially numbered green label issued by the department required on each shipment of alligators being transported out of the state.

**Bona Fide Resident** —

a. Any person who has resided in the state of Louisiana continuously during the 12 months immediately prior to the date on which he applies for any license and who has manifested his intent to remain in this state by establishing Louisiana as his legal domicile, as demonstrated with all of the following, as applicable:

i. If registered to vote, he is registered to vote in Louisiana;

ii. if licensed to drive a motor vehicle, he is in possession of a Louisiana driver's license;

iii. if owning a motor vehicle located within Louisiana, he is in possession of a Louisiana registration for that vehicle;

iv. if earning an income, he has filed a Louisiana state income tax return and has complied with state income tax laws and regulations.

b. As to a corporation or other legal entity, a resident shall be any which is incorporated or otherwise organized under and subject to the laws of Louisiana, and as to which the principal place of business and more than 50 percent of the officers, partners, or employees are domiciled in Louisiana.

**Closed Season** — That period of time of a calendar year not specifically included in the open season.

**Commission** — The Louisiana Wildlife and Fisheries Commission.

**Common Carrier** — Any agency or person transporting passengers or property of any description for hire.

**Confiscation** — The exercise of a right under the police power wherein property is seized and held pending court order if the seized material is nonperishable, or disposed of without judicial intervention if perishable.

**Consumer** — Restaurants and other places where alligator, fish, shrimp, or other aquatic life is prepared for human consumption; or any person using alligator, fish, shrimp, or other aquatic life for bait or personal consumption.

**Department** — The Louisiana Department of Wildlife and Fisheries.

**Designated Collection Agent** — Anyone who is permitted by the department to assist an alligator egg collection permittee during alligator egg collection.

**Dressing, Dressed Skins or Dressed Furs** — (See "Tanning").

**Finished Alligator Part** — Any non-edible alligator part that has been completely processed from parts other than hides for retail sale.

**Fur Buyer** — Anyone who buys whole nongame quadrupeds for the purpose of pelting, carcasses of fur bearing animals, raw furs or skins from fur trappers, alligator hunters, alligator farmers, fur buyers, or fur dealers and who sells to another fur buyer or fur dealer within the confines of the state or to a nonresident fur dealer licensed by the state of Louisiana in interstate commerce, or who acts as an agent of another fur buyer or fur dealer in this state in such purchase or sale. Fur buyers are divided into two classes, resident and nonresident. Resident fur buyers are those who are bona fide residents of this state. All others are nonresident fur buyers.

**Fur Dealer** — Anyone who deals in whole nongame quadrupeds for the purpose of pelting, carcasses of fur bearing animals, raw furs and skins and who:

a. buys from a fur trapper, alligator hunter, or alligator farmer, either directly or indirectly, and ships or exports from this state, either directly or indirectly, the raw furs and skins so bought; or

b. buys from a fur buyer or other fur dealer and exports from this state the raw furs and skins so bought; or

c. buys from a fur trapper, alligator hunter, alligator farmer, fur buyer, or other dealer and sells such raw furs and skins for manufacturing into a finished product in this state; or

d. manufactures such furs and skins into a finished product in this state, buying directly from a fur trapper, alligator hunter, alligator farmer, fur buyer, or fur dealer; or

e. transports raw furs or skins into this state for the purpose of sale within the state. Fur dealers are divided into two classes, resident and nonresident. Resident fur dealers are those who are bona fide residents of this state. All others are nonresident fur dealers;

f. converts raw alligator skins through the tanning process into finished or partially finished leather and/or converts raw (green or dried) fur pelts into dressed furs ready for manufacturing.

**Hatchling** — A young of the year alligator which is less than 23 inches in length.

**Hide** — (See "Pelt").

**Hook** — Any curved or bent device attached to a line or pole for the purpose of taking alligators.

**Hunt** — In different tenses, attempting to take.

**Incubator** — An apparatus designed and used for the primary purpose of incubating alligator eggs.

**Land Manager** — Any authorized person who represents the landowner.

**Landowner** — Any person who owns land which the department has designated as alligator habitat.

**Licensee** — Any resident or nonresident lawful holder of an effective license duly issued under the authority of the department.

**Nongame Quadruped** — Alligators, beavers, bobcats, coyotes, gray foxes, minks, muskrats, nutrias, opossums, otters, raccoons, red foxes, skunks, and other wild quadrupeds valuable for their furs or skins.

**Nongame Quadruped Breeder** — A person properly licensed to engage in the business of raising, exhibiting and selling nongame quadrupeds on alligator or fur farms.

**Nongame Quadruped Exhibitor** — A person properly licensed to engage in the business of raising and/or exhibiting nongame quadrupeds.

**Nonresident** — Any person who is not a bona fide resident as that term is defined by R.S. 56:8(12).

**Nuisance Alligator** — A specific (particular) alligator that poses a threat to human life or property.

**Open Season** — That period of time set by the Louisiana Wildlife and Fisheries Commission, during which wild alligators or their eggs may be lawfully taken.

**Out-of-State Shipping Seal** — A special locking device or seal supplied by the department and placed on or across a shipping container by department personnel prior to shipping out-of-state.

**Out-of-State Shipping Tag** — An official, serially numbered tag, yellow in color, issued by the department required on each shipment of alligator hides shipped out of state.

**Part** — For purposes of this Section, a part is a division of a subsection.

**Pelt** — The skin or hide of a quadruped.

**Pelting** — Removing the skin and/or fur of a quadruped in such a manner as to render it marketable.

**Person** — Includes any individual person, association, corporation, partnership, or other legal entity recognized by law.

**Pole Hunting** — The act of taking an alligator from a den with a hook pole or snagging device of any type and includes using such devices to induce an alligator to move from a den prior to taking.

**Possess** — In its different tenses, the act of having in possession or control, keeping, detaining, restraining, or holding as owner, or as agent, bailee, or custodian for another.

**Processed Alligator Part** — Any part (and its resulting products) that has been removed from a legally taken alligator and for commercial purposes converted into a finished alligator part, or meat prepared and packaged for retail sale.

**Propagation** — The holding of live alligators for production of offspring.

**Raising** — The production of alligators under controlled environmental conditions or in outside facilities.

**Rearing** — (See "Raising").

**Resident** — (See "Bona Fide Resident").

**Secretary** — The secretary of the Louisiana Department of Wildlife and Fisheries.

**Skin** — (See "Pelt").

**Take** — In its different tenses, the attempt or act of hooking, pursuing, netting, capturing, snaring, trapping, shooting, hunting, wounding, or killing by any means or device.

**Tanning** — The conversion of alligator skins or fur pelts into an intermediate or finished form and includes the following: crust tanning alligator leather, dyeing alligator leather, glazing alligator leather, tanning fur pelts, shearing fur pelts, and dyeing fur pelts, and includes the dressing of skins and furs.

**Transport** — In its different tenses, the act of shipping, attempting to ship, receiving or delivering for shipment, transporting, conveying, carrying, or exporting by air, land, or water, or by any means whatsoever.

**Wildlife** — All species of wild vertebrates.

**Wildlife Management Area** — Any area set aside, maintained, and supervised by the department for the purpose of managing and harvesting wild birds, wild quadrupeds, fish and other aquatic life under controlled conditions to afford maximum public hunting and fishing opportunity.

**Wildlife Refuge** — Any area set aside and designated by the department as a refuge on which wild birds and animals are protected. Control of certain forms of wildlife may be conducted by the department.

#### C. General Rules

1. No person shall take, possess, purchase or sell alligators, alligator eggs, alligator hides, alligator parts, or goods manufactured from alligators, except as provided in these regulations and La. R.S. Title 56.

2. Each alligator, alligator hide, alligator egg, or alligator part taken or possessed in violation of these regulations shall constitute a separate offense.

3. Alligators or hides of alligators harvested in Louisiana shall be tagged in accordance with provisions as prescribed in Subsection F, Paragraph 5 of these regulations and deviation from those requirements shall be a violation and subject hides to confiscation. Violation of this Part is a class 4 violation as described in Title 56.

4. Pole hunting is prohibited. It is legal for a hunter to retrieve a shot alligator with a hook pole or to retrieve with a hook pole an alligator taken on a hook and line. Violation of this Part is a class 2 violation as described in Title 56.

5. An alligator hunter must possess on his person one or more current alligator hide tags issued for the property on which he is hunting; and if participating in a joint hunting operation at least one licensed hunter needs to possess current hide tags issued for the property on which they are hunting among a group of licensed hunters who are physically present in the same location. Violation of this Part is a class 2 violation as described in Title 56.

6. No person shall release any alligator from any taking device for any purpose without first dispatching the alligator. After the alligator is removed from the taking device the hide tag shall be properly attached immediately upon possession. Violation of this Part is a class 4 violation as described in Title 56.

7. Taking or collection of any wild alligator illegally is strictly prohibited. Violation of this Part is a Class 4 violation for each alligator taken as described in Title 56. All alligators taken in violation of this Part shall be confiscated and in addition to all other penalties provided herein, all alligator

licenses of any type held by the offender(s) shall be revoked for a period of three calendar years. If violation(s) of this Part involves a farm operation, no alligators shall be raised or propagated on the offender's facilities for a period of three calendar years. Any live alligator(s) confiscated pertinent to any violation of this Part must be returned to the wild when appropriate. Selection of the release site and time of year of the release shall be accomplished only after consultation with and in agreement with biological staff of Fur and Refuge Division.

8. The shipment of alligator eggs out of state is prohibited except where special scientific permits have been obtained in advance from the department which specify all such shipments. Violation of this Part is a class 4 violation as described in Title 56.

9. Transportation of alligator(s) into this state without prior written approval of the department is strictly prohibited. Violation of this Part is a class 4 violation as described in Title 56.

10. It is unlawful to ship alligator eggs into the state of Louisiana unless they are to be used for department-sponsored scientific studies and these shipments shall have prior written department approval. Violation of this Part is a class 4 violation as described in Title 56.

11. The shipment of live alligators or alligator eggs out of the United States is strictly prohibited unless they are used for department-sponsored scientific studies with an accompanying authorization signed by the secretary. The transfer of ownership of live alligators out of their natural range for commercial purposes is strictly prohibited. However, this Part does not prohibit a licensed Louisiana alligator farm from raising alligators of Louisiana origin in a non-range state provided the non-range farm is in complete compliance with all applicable state(s) and federal regulations. Violation of this Part is a class 3 violation as described in Title 56.

12. There is levied a severance tax of \$.25 on each alligator hide taken from within the state, payable to the state through the department by the alligator hunter or alligator farmer shipping or taking his own catch out of state, or by the dealer shipping skins or hides out of state or tanning alligator skins in Louisiana. Violation of this Part is a class 2 violation as described in Title 56.

13. An alligator hunter or alligator farmer may give alligator parts to anyone for personal use. Any part of an alligator shall have affixed thereto the name, address, date, hide tag number, and the license number of the person donating the alligator part(s). This information shall be legibly written in pen or pencil on any piece of paper or cardboard or any material which is attached to the part(s) or to the container enclosing the part or parts. This information must remain affixed until the part(s) has been stored at the domicile of the possessor. Violation of this Part is a class 2 violation as described in Title 56.

14. a. R.S. 56:280, passed in the regular session of the 1992 Louisiana Legislature established a state policy which protects white or albino alligators and except under department permit prohibits the taking of white or albino alligators from the wild.

b. Conditions under which any alligator that is white or albino may be taken from the wild and under official department permit include:

i. Landowners or licensed alligator farmers or ranching

operators may capture live and unharmed a white or albino alligator for its own protection. All such instances of possession shall be reported immediately to the department.

ii. Any white or albino alligator hatchling produced from wild collected eggs authorized by a department Alligator Egg Collection Permit will remain in the possession of such licensed operators. Any white or albino hatchling must be reported immediately upon hatching to the department on a standard activity report form.

iii. Any person who unintentionally takes from the wild any alligator that is white or albino by hook and line shall immediately report its presence and location to the department. Department personnel of the Fur and Refuge Division will on a case-by-case basis determine the disposition of any such white or albino alligator which is unintentionally hooked.

c. Any white or albino hatchling produced from a licensed breeding pen will remain in the possession of such licensed operators but must be reported immediately upon hatching to the department on a standard activity report.

d. It shall be a violation if any person intentionally takes from the wild any alligator that is white or albino by any means.

e. Violation of R.S. 56:280 shall subject the violator to a fine of not less than \$10,000 and imprisonment for not less than six months or more than 12 months, or both.

15. Alligator meat and parts may be shipped in containers that are sealed and the parts identified to the CITIES tag of origin. A fully executed alligator hunter, farmer, or parts dealer Alligator Parts Sale or Transaction form shall meet the U.S. Fish and Wildlife Service parts identification requirements, provided such form(s) is/are prominently attached to the outside of each shipping container. Alligator meat/parts shipped to another state must meet applicable state/federal requirements of the receiving state. Alligator meat/parts exported from the United States must meet the requirements of the U.S. Fish and Wildlife Service as well as those of the receiving country. Alligator skulls being exported shall carry a "tag" containing the CITIES tag number and the hunter's name and license number. The skull must also be physically marked with the number of the original CITIES tag used for the hide of the individual alligator. Violation of this Part is a class 3 violation as described in Title 56.

#### D. Licenses, Permits and Fees

1. The licenses and fees required for activities authorized by these regulations are as prescribed under provisions of Title 56, or as prescribed in these regulations, and are:

- a. \$25 for a resident alligator hunter's license; including commercial, helper, sport, and nuisance types;
- b. \$150 for a nonresident alligator hunter's license;
- c. \$25 for a resident fur buyer's license;
- d. \$100 for a nonresident fur buyer's license;
- e. \$150 for a resident fur dealer's license (\$500 deposit required);
- f. \$300 for a nonresident fur dealer's license (\$1,000 deposit required);
- g. \$10 for a nongame quadruped exhibitor's license;
- h. \$25 for a nongame quadruped breeder's license;
- i. \$50 for a alligator parts dealer license;
- j. \$5 for a alligator parts retailer license;
- k. \$4 for each alligator hide tag;
- l. \$4 for each whole alligator leaving the state as alligator shipping label fee;

m. \$0.25 severance tax for each alligator hide taken from within the state;

n. \$25 for a Designated Agent Collection Permit.

All license types prescribed above except nongame quadruped exhibitor and breeder expire annually on June 30. Nongame quadruped exhibitor and breeder licenses expire annually on December 31.

2. No person may take, attempt to take, or possess a wild alligator in this state during the open season for taking wild alligators unless he or she has acquired and possesses an alligator hunter's license. An alligator hunter must have in possession a valid alligator hunter license to take or sell alligators, their skins, or parts. Violation of this Part is a class 3 violation as described in Title 56.

3. No person may engage in the business of buying and selling alligators or alligator skins unless he has acquired a resident or nonresident fur buyer's license. No resident or nonresident fur buyer shall ship furs, alligators, or alligator skins out of state. Violation of this Part is a class 3 violation as described in Title 56.

4. No person may engage in the business of buying and selling alligator or alligator skins or shipping alligator skins out of state or tanning alligator skins within the state unless he has acquired a resident or nonresident fur dealers license. Violation of this Part is a class 3 violation.

5. No person may engage in the business of raising and/or exhibiting alligators unless he or she has acquired and possesses a valid nongame quadruped exhibitor license. Violation of this Part is a class 3 violation as described in Title 56.

6. No person may engage in the business of raising, breeding, collecting and selling alligator eggs from the wild, propagating, exhibiting and selling alligators alive or selling their parts, and killing and transporting them and selling their skins and carcasses unless he or she has acquired and possesses a valid nongame quadruped breeder license and complies with Subsections N and O of these regulations. Violation of this Part is a class 3 violation as described in Title 56.

7. No person shall engage in the business of buying and selling unprocessed alligator parts unless he has acquired and possesses a valid alligator parts dealer's license. Violation of this Part is a class 2 violation as described in Title 56.

8. Each retailer purchasing for retail sale, finished alligator parts made from parts other than hides, shall secure from the department an alligator parts retailer license prior to commencing business. Violation of this Part is a class 2 violation as described in Title 56.

9. No person shall remove and possess alligator eggs from wild nests unless he has acquired and possesses a valid nongame quadruped breeder license or a valid Designated Agent Collection Permit and also has in his possession a valid alligator egg collection permit. Egg collection permits will only be issued to those persons who demonstrate competency in egg collection and handling, have necessary equipment accessible and comply with all department requirements as described in Subsection N of these regulations. Violation of this Part is a class 4 violation as described in Title 56.

10. No person shall ship or transport alligators out of the state without first applying for and receiving an alligator shipping label which shall be affixed to each shipment of

alligators and is properly completed and validated by department personnel. Violation of this Part is a class 3 violation as described in Title 56.

11. Every alligator hunter or alligator farmer shipping or transporting his own catch of alligator skins out of state is liable for the severance tax thereon, and shall apply for an official out-of-state shipping tag to be attached to the shipment and shall pay the severance tax prior to shipment. Violation of this Part is a class 2 violation as described in Title 56.

12. Valid holders of alligator hunter license, nongame quadruped breeder license, fur dealers license and alligator parts dealer license must comply with the receiving state/country requirements and with federal licensing, tagging and permit requirements to engage in interstate and international commerce involving alligators, alligator hides, alligator parts and fully manufactured alligator hide products. Violation of this Part is a class 2 violation as described in Title 56.

#### E. Wild Harvest Methods

1. Alligators taken from the wild may be removed from hook and line, and other legal capture devices which may be used, only during daylight hours, between official sunrise and official sunset. Violation of this Part is a class 4 violation as described in Title 56.

2. There are no size restrictions on wild alligators taken during the general open season.

3. Legal methods for taking alligators in the wild are as follows:

a. hook and line;

b. long (including compound) bow and barbed arrow; and

c. firearms.

Violation of this Part is a class 2 violation as described in Title 56.

4. Hooks and arrows may be used only when a line of at least 300-pound test is securely attached to the hook or head of the arrow in such a manner to prevent separation from the hook or head until the carcass is retrieved. The other end of the line must be attached to a stationary or floating object capable of maintaining the line above water when an alligator is attached. Violation of this Part is a class 2 violation as described in Title 56.

5. Alligator hunters shall inspect their hooks and lines and remove captured alligators daily. Alligators shall not be cut loose from hooks and lines for the purpose of selecting larger alligators. All hooks and lines shall be removed when an alligator hunter's quota is reached. In the event an alligator is hooked and the hunter's quota has been reached the hunter must release the alligator in the most humane method possible. Violation of this Part is a class 2 violation as described in Title 56.

6. Baited hooks and lines may be set no more than 24 hours prior to the general open season and shall be removed no later than sunset of the last day of the open season. Violation of this Part is a class 2 violation as described in Title 56.

7. No person possessing alligator hide tags issued for privately-owned land or water may take alligators on adjacent publicly-owned water unless the taking device is anchored to privately-owned land or the person is on privately-owned land when the taking occurs, provided that any alligator captured on a legal taking device that is anchored to privately-owned

land or held by a person on privately-owned land may be dispatched from a floating craft on public water. Violation of this Part is a class 2 violation as described in Title 56.

8. A person possessing alligator hide tags for publicly-owned areas may take alligators by legal means from a floating craft on public water for which the tags are issued.

#### F. Alligator Hide Tag Procurement and Tagging Requirements

1. Alligator hide tags may be obtained as follows and only to properly licensed alligator hunters and nongame quadruped breeders.

2. Landowners, Land Managers and Hunters - upon application to the department on forms provided for tag issuance. Applications for alligator tag allotments will be taken annually beginning August 1 and ending 10 days after the season opens. Tags will not be issued after the tenth day following the season opening date.

a. Maximum tag issuance to individual landowners, land managers, or their hunters shall be determined solely by the department. Landowners, land managers, or their hunters shall certify total acreage owned or represented on a form prescribed by the department at the time of application. The location and acreage of the property must be provided which includes parish, township, range and section delineation figures.

b. Land managers and hunters must present a notarized document from the landowner verifying their selection to represent that landowner and the total acreage represented to obtain hide tags.

c. Payment for all alligator tags shall be received by the department prior to issuance. Numbered alligator hide tags shall only be issued in the name of the license holder and are nontransferable. A refund will be issued for all unused alligator tags which are returned within 15 days following the close of the season.

3. Alligator farmers - upon request and receipt of payment to the department at any time at least two weeks prior to scheduled harvesting, subject to verification of available stock by department personnel. A refund will be issued for all unused alligator tags returned to the department within 15 days following the last day of the year that issued tags are valid.

4. If an alligator hunter is cited for hunting alligators out of season, or at night, or on property other than that for which hide tags were issued, all unused hide tags and alligators in possession shall be confiscated and the violator's alligator hunting license shall be revoked. Violation of this Part is a class 4 violation as described in Title 56.

5. A hide tag shall be properly attached and locked using the tag's locking device in the alligator's tail immediately upon possession by an alligator hunter. Alligator farmers, fur buyers and fur dealers may wait until farm raised alligators are skinned prior to tagging, but under no circumstances can the tag be attached using the locking device more than 48 hours after dispatching the alligator. Live or dead farm raised alligators may be transported with their accompanying tags from a licensed alligator farm to a licensed processing facility, however, each shipment shall be accompanied with the exact number of alligator hide tags. In the event that an alligator tag contains a factory defect rendering it unusable for the purpose intended or becomes detached from an alligator or hide, the tag must be reattached to the tail of the alligator/hide. The department will be

responsible for the replacement of reattached tags prior to shipping out-of-state or prior to tanning within the state. It shall be unlawful to tag or attempt to tag an alligator with a tag that has been locked prior to the taking. Locked tags may be replaced upon request at the discretion of the department. The alteration of hide tags is strictly prohibited and will result in the confiscation of all tags and alligators/hides and the revocation of the violator's alligator hunting license. Violation of this Part is a class 4 violation as described in Title 56.

6. In the event that an alligator hide tag cannot be located when in the possession of a buyer/dealer, then the following procedure shall be followed:

a. Following discovery of an untagged alligator or alligator hide by the buyer/dealer, they shall notify the Department of Wildlife and Fisheries, Fur and Refuge Division within 24 hours and the Department of Wildlife and Fisheries will place a state tagging device on the alligator or alligator hide.

b. Upon discovery of an untagged alligator or alligator hide by Department of Wildlife and Fisheries personnel, such personnel shall place a state tagging device on the alligator or alligator hide.

c. The state tagged alligator or alligator hide will remain in the possession of the buyer/dealer following the placement of the state tagging device until such time as the hide tag is located or until December 31st of that year, whichever comes first. Upon presentation of the missing hide tag and the corresponding buyer/dealer record which documents a match between the tag number and the alligator/hide being held, and if the Department of Wildlife and Fisheries then confirms that such tag number has not been previously shipped, the department of Wildlife and Fisheries shall attach a replacement alligator hide tag.

d. If the buyer/dealer does not locate the missing hide tag following the placement of the state tagging device by the end of the allotted time period but is able to identify the tag number on a Department of Wildlife and Fisheries issued or approved buyer/dealer record which documents a match between the tag number and the skin being held, and if the Department of Wildlife and Fisheries then confirms that subject tag number has not been previously shipped, the Department of Wildlife and Fisheries may, in its discretion, issue a replacement alligator hide tag.

e. The failure of the buyer/dealer to produce the correct hide tag and/or correct documentation by the end of the allotted time period shall constitute a violation of this part.

f. The previous or subsequent attachment to an alligator or alligator hide of the missing hide tag as described above shall constitute a violation of this part.

g. Violation of this part is a Class 4 violation as described in Title 56.

#### G. Open Season, Open Areas, and Quotas

1. Open seasons are as follows.

a. The general open season for taking alligators in the wild may be established annually by the commission at their regular July meeting. The secretary shall be authorized to close, extend, delay, or reopen the season as biologically justifiable.

b. Nuisance control hunters may take nuisance alligators at any time as prescribed by the department.

c. Farm-raised alligators may be taken at any time following the issuance of hide tags by the department.



d. The open season for collection of alligator eggs from the wild shall be from May 15 through September 1 of each calendar year. Violation of this Subpart is a class 4 violation as described in Title 56.

2. The open areas are as follows.

a. For the general open season, those areas designated by the biological staff of the department as alligator habitat and which can sustain an alligator harvest.

b. The department may select public lakes and lands for an experimental alligator hunting program. The harvest will be controlled by a tag allotment for each lake as determined by department personnel. Applicants for public lake hunting must be 16 years of age or older. Applications must be received at least 10 days prior to the season opening date. A public drawing will be held to select hunters. An alligator hunter can receive tags for and hunt on only one public lake per season. The tag quota for each lake and hunter will be established by the biological staff of the department. Alligator tags issued on public lakes and lands are nontransferable.

c. Wild alligators in the remainder of the state may be taken only under provisions as prescribed by the department.

d. The open alligator egg collection season shall be those areas designated by the biological staff of the department as alligator habitat which can sustain an egg collection harvest and egg quotas will be determined by department biologists.

3. The daily and season quota is equal to the number of valid alligator hide tags that a licensed alligator hunter possesses. Violation of this Part is a class 4 violation as described in Title 56.

4. Non resident alligator hunters may only take three alligators during the open season. Violation of this Part is a class 3 violation as described in Title 56.

5. Harvest rates will be calculated annually by department personnel based on biological data. Alligator hide tag allotments will be established prior to issuance of alligator hunting licenses.

#### H. Possession

1. No person shall possess alligators or alligator hides in Louisiana without valid official tags properly attached in the tail using the locking device as prescribed in Subsection F, Paragraph 5. Violation of this Part is a class 4 violation as described in Title 56.

2. Alligator farmers may request hide tags or shipping labels from the department to be used on farm-raised alligators that have died and may hold those alligators in freezers until receipt of the requested hide tags or shipping labels. These alligators may be held in freezers for a maximum of 60 days prior to disposal. All alligators 24 inches and greater in length that die may be skinned and tagged with an alligator hide tag within 48 hours of death. Violation of this Part is a class 3 violation as described in Title 56.

3. No person other than a licensed alligator hunter, licensed alligator farmer, licensed fur buyer or licensed fur dealer may possess a tagged or labeled alligator, a tagged raw or salted hide of an alligator at any time, provided that legally documented tagged or labeled alligators or tagged hides may be possessed without license while in transit, or during processing for tanning or taxidermy. However, properly tagged and documented alligators or hides may be stored at any location at the owner's discretion. Violation of this Part is a class 4 violation as described in Title 56.

4. No person other than a licensed alligator farmer or licensed nongame quadruped exhibitor shall possess live alligators at any time other than by a permit issued by the department upon request for use in displays and educational purposes, and by holders of valid department issued permits for scientific purposes. Live, farm-raised alligators and their accompanying alligator hide tags may be held for processing by a properly licensed alligator skinning facility without a license or permit. Violation of this Part is a class 4 violation as described in Title 56.

5. No person other than a licensed alligator farmer or licensed nongame quadruped exhibitor shall possess alligator eggs at any time other than department permitted designated collection agents assisting a licensed and permitted alligator farmer during wild egg collection, or a holder of a valid department issued permit for scientific purposes. Violation of this Part is a class 4 violation as described in Title 56.

6. Any alligators hatched from scientific permits issued by the department shall be returned to the wild under departmental supervision following completion of the research project. Violation of this Part is a class 2 violation as described in Title 56.

#### I. Importation, Exportation, Purchase, and Sale

1. Alligators, alligator hides (raw or salted), or parts of alligators, may be brought into the state only if the alligators, alligator hides or parts of alligators were lawfully taken in another state or country and the person, firm or corporation bringing the alligators, alligator hides (raw or salted), or alligator parts into the state has obtained written permission from the department. Violation of this Part is a class 4 violation as described in Title 56.

2. All alligators, alligator hides (raw or salted), or parts of alligators possessed, sold, purchased, exported, imported, or brought into the state from another state shall be accompanied by documented evidence that they were lawfully taken. Documented evidence shall consist of, but not be limited to:

a. a resource user license or permit number allowing the taking of alligators and tags or other identification required by the state or country of origin shall be firmly attached to the alligator, alligator hide, or parts of alligators; and

b. a tag or label is affixed to the outside of any package or container of alligators, alligator hides, or alligator parts that specifies type of contents, indicates quantity contained, and lists applicable license or permit numbers.

Violation of this Part is a class 2 violation as described in Title 56.

3. Purchases of alligators, alligator hides, alligator eggs, and alligator parts are restricted as follows.

a. A licensed alligator hunter may not purchase alligators or alligator hides from anyone.

b. A licensed fur buyer may purchase whole alligators or alligator hides from a Louisiana licensed alligator hunter, licensed alligator farmer, licensed fur dealer, or another fur buyer.

c. A licensed fur dealer may purchase whole alligators or alligator hides from a licensed alligator hunter, licensed alligator farmer, fur buyer or another fur dealer.

d. A licensed alligator farmer may purchase live alligators only from another licensed alligator farmer (with a department-approved Alligator Transfer Authorization Permit) or the department.

e. An alligator farmer may purchase alligator eggs only from another alligator farmer, a landowner/land manager (with an approved department alligator egg collection permit), or the department.

f. A licensed alligator parts dealer may purchase alligator parts from a licensed alligator hunter, alligator farmer, another alligator parts dealer, or the department.

g. A licensed alligator parts retailer may purchase finished alligator parts for retail sales.

4. Sales of alligators, alligator eggs, and alligator parts are restricted as follows:

a. A licensed alligator hunter may sell alligators, alligator hides, or alligator parts taken by the licensee during the general open season to anyone who may legally purchase.

b. A licensed alligator farmer may sell alligators, alligator eggs, alligator hides, or alligator parts to anyone who may legally purchase. The sale of alligator eggs or live alligators shall only occur following the issuance of a Transfer Authorization Permit. Application for the permit shall be made at least two weeks prior to the transfer.

c. A licensed fur buyer may sell whole alligators or alligator hides to a fur dealer or another fur buyer within the confines of the state.

d. A licensed fur dealer may sell whole alligators or alligator hides to anyone who may legally purchase.

e. A licensed alligator parts dealer may sell alligator parts, other than hides, to anyone.

f. A licensed alligator parts retailer may sell finished alligator parts to anyone.

5. Legally tagged and documented alligators, alligator hides, and parts of alligators taken in Louisiana may be shipped out of state or exported by alligator hunters, alligator farmers, fur dealers and alligator parts dealers subject to Subsection K of these regulations (relating to report requirements) provided that no live alligators or eggs originating in Louisiana may be exported outside of their natural range without specific department authorization and the concurrence of the United States Fish and Wildlife Service, to be used only for scientific purposes. Violation of this Part is a class 3 violation as described in Title 56.

6. A special permit is required of anyone who sells alligator eggs, or live alligators. Violation of this Part is a class 4 violation as described in Title 56.

#### J. Nuisance Alligator Control

1. Nuisance alligator hunters will be selected by the department with proper screening by enforcement personnel in the region of appointment. Selection may be based upon recommendations received from the local governing body. Applicants with prior alligator hunting violations will be rejected.

2. Nuisance alligator hunters shall purchase a valid alligator hunter license and are bound by all laws, rules and regulations governing alligator hunting with the exception that nuisance alligators may be taken at anytime.

3. Nuisance alligator complaints will be verified by department personnel prior to being approved for removal.

4. Tags will be issued to nuisance alligator hunters. Nuisance alligator hunters will attempt to catch nuisance alligators and relocate to natural habitat selected by the department. It is unlawful for any nuisance alligator captured alive to be sold or otherwise disposed of on an alligator farm. Alligators and alligator parts taken under these provisions may be retained and sold by the nuisance alligator hunter as any

other legally taken wild alligator or alligator part. Violation of this Part is a class 4 violation as described in Title 56.

5. Nuisance alligator hunters may take alligators by any means prescribed by the department. Failure to comply with departmental instructions may result in immediate termination of the individual's participation in the nuisance alligator program. Violation of this Part is a class 2 violation as described in Title 56.

#### K. Report Requirements

1. Report forms provided by or approved by the department must be completed and filed with the department by all persons who have been issued an alligator hunter's license, fur buyer's license, fur dealer's license, nongame quadruped exhibitor's license, nongame quadruped breeder's license, alligator parts dealer's license, or alligator egg collection permit in accordance with this Subsection. Reports shall include but not be limited to the information specified in this Subsection.

2. Alligator hunters receiving hide tags from the department are responsible for disposition of all issued tags and must:

a. complete an official alligator parts transaction form furnished by or approved by the department at the time of each alligator part transaction. These forms shall be submitted to the department at the end of the calendar year;

b. complete an official lost tag form, furnished by the department for any hide tags lost or stolen. These forms shall be submitted to the department within 15 days following the close of the season. Lost or stolen tags will not be replaced;

c. all unused tags must be returned to the department within 15 days following the close of the season. Tag fees will only be reimbursed during this specific time period;

d. the department must be notified of any trophy skins not sold to commercial buyers or dealers within 30 days following the close of the season, on official forms provided by or approved by the department;

e. each licensed alligator hunter selling alligator parts to a person or a restaurant shall provide that person with a bill of sale for each transaction;

f. all records of commercial transactions involving alligator parts by alligator hunters shall be available for inspection by the department.

Violation of this Part is a class 2 violation as described in Title 56.

3. A nuisance alligator hunter shall comply with the same report requirements as a commercial alligator hunter and complete any other reports required by the department. Violation of this requirement shall result in immediate termination of nuisance alligator hunter status. Violation of this Part is a class 2 violation as described in Title 56.

4. Alligator farmers receiving hide tags from the department are responsible for disposition of all issued tags and must:

a. complete an official alligator parts transaction form, furnished by or approved by the department at the time of each alligator parts transaction. These forms shall be submitted to the department along with the annual report. Violation of this Part is a class 2 violation as described in Title 56;

b. complete an official lost tag form, furnished by the department, for any hide tags lost or stolen. These forms shall be submitted to the department within 15 days

following the last day of the year that issued tags are valid. Lost or stolen tags will not be replaced. Violation of this Part is a class 2 violation as described in Title 56.

c. all unused hide tags must be returned to the department within 15 days following the last day of the year that issued tags are valid. Violation of this Part is a class 3 violation as described in Title 56.

d. each alligator farmer shall report annually, no later than December 1, on an official form provided by the department, all activities that have occurred on the farm for the past year including but not limited to the number of live alligators as of that date, separated by sizes, the number of eggs collected and hatched, the purchase and sale of alligators, hides, and parts for the past year and the numbers of alligators lost. Failure to complete this form properly and completely will result in nonrenewal of the nongame quadruped breeder's license. Violation of this Part is a class 3 violation as described in Title 56;

e. each licensed alligator farmer selling alligator parts to a person or a restaurant shall furnish that person with a bill of sale for each transaction. Violation of this Part is a class 2 violation as described in Title 56;

f. each alligator farmer collecting alligator eggs, hatching alligator eggs, selling alligators for processing, or selling alligator skins shall submit completed forms as provided by the department within 10 days following completion of the activity. Violation of this Part is a class 3 violation as described in Title 56.

5. Fur buyers, fur dealers, alligator farmers and alligator hunters engaged in the business of buying and/or selling whole alligators or alligator hides must keep within the state a complete record on forms provided by or approved by the department, all purchases and sales of whole alligators or alligator hides as described in Title 56, and;

a. every fur buyer, fur dealer, alligator farmer or alligator hunter having undressed alligator hides in his possession shall file with the department within 60 days of purchase or within 60 days of tagging or prior to shipping out of state or prior to tanning skins in Louisiana, whichever occurs first, a complete report, on forms provided by or approved by the department, a detailed description of alligator hides to be shipped or tanned. At the time of shipment or prior to tanning, department personnel will inspect hides and replace any broken or reattached tags. Department personnel will issue the appropriate number of yellow shipping tags, one for each shipment. At that time, department personnel will affix a seal/or locking device to each container and if container is reopened by anyone other than department personnel or federal personnel this action will be considered illegal. In conjunction with the inspection and prior to department issuance of shipping tag(s) and seal(s) or locking device(s), department personnel must collect:

- i. all completed buyer/dealer records for skins in each shipment;
- ii. shipping manifest including each skin in shipment;
- iii. stub portion of yellow shipping tag completely filled-out;
- iv. severance tax owed by alligator hunter, alligator farmer or fur dealer.

If any of the above requirements are not satisfied, the shipment will not be authorized.

Violation of this Part is a class 3 violation as described in Title 56.

6. Fur dealers engaged in the business of buying and selling alligator hides must maintain complete records of alligator hides purchased inside and outside the state as described in Title 56. Fur dealers in the business of tanning alligator hides must provide a monthly report, on forms provided by or approved by the department, of all alligator hides being held in inventory. Failure to maintain complete records and to pay the required severance tax subjects any dealer to the full penalties provided and the immediate revocation of his license by the department. No license shall be issued to a dealer who has not paid the tax for the preceding year. Violation of this Part is a class 3 violation as described in Title 56.

7. Alligator parts dealers acquiring alligator parts, shall complete an official alligator parts purchase form at the time of each purchase. Alligator parts dealers selling alligator parts, shall complete an official alligator parts sale form at the time of each sale. These forms shall be furnished by or approved by the department and shall be submitted to the department annually, no later than June 30, and;

a. alligator parts dealers shall furnish a bill of sale to anyone purchasing alligator parts.

b. the records of transactions involving alligator parts shall be available for inspection by the department and shall be maintained complete for a period of one year following any transaction.

Violation of this Part is a class 2 violation as described in Title 56.

8. Any alligator parts retailer purchasing finished alligator parts shall maintain a bill of sale for each purchase for a period of six months after such purchase and these records shall be available for inspection by the department. Violation of this Part is a class 2 violation as described in Title 56.

#### L. Alligator Meat

1. Alligator meat from lawfully taken alligators can only be sold according to state and federal laws, Louisiana Department of Health and Hospitals regulations and Louisiana Wildlife and Fisheries Commission regulations. Violation of this Part is a class 3 violation as described in Title 56.

2. Alligator meat processed in the State of Louisiana and sold for human consumption must be processed in a licensed facility approved by the Louisiana Department of Health and Hospitals and the facility must display a valid permit issued by that agency. Violation of this Part is a class 2 violation as described in Title 56.

3. All processed alligator meat for sale must be packaged in suitable containers which identifies the contents as alligator meat, marked with a valid department license number and comply with all state and federal packaging and labeling requirements. Violation of this Part is a class 2 violation as described in Title 56.

4. All alligator meat shipped into the state and being offered for sale must meet all of Louisiana's health, processing, packaging and labeling requirements. Violation of this Part is a class 2 violation as described in Title 56.

#### M. Disposal of Alligators by the Department

1. The department may sell alligators, alligator eggs or parts of alligators taken for any purpose deemed necessary for proper management of the species pursuant to Title 56.

2. The department may dispose of alligators, alligator eggs, or parts of alligators by donation or lending to a scientific institution or other institutions that the department

deems have need for such alligators, however, these institutions cannot sell or barter these animals which must be returned to the department at the conclusion of the program or need.

3. Confiscated alligator hides and parts may be destroyed by the department pending the outcome of the criminal trial.

4. Confiscated alligator eggs or live alligators may be sold or may be cared for by the department and released in suitable alligator habitat when and where they can survive when appropriate. All costs incurred by the department in the maintenance of these eggs and animals in captivity shall be the responsibility of the offender and restitution shall be made to the department. The department may consign confiscated alligators to a licensed farm for raising purposes and may compensate the farmer for his expenses by transferring ownership to him of a percentage of the confiscated alligators; not to exceed 50 percent.

#### N. Alligator Egg Collection

1. Alligator egg collection permits are a three party permit between the department, the permittee and a landowner/manager who owns or leases alligator nesting habitat determined by department biologists to be capable of producing alligator eggs. The numbers of eggs to be collected will be based upon biological management criteria and will be determined annually by technical staff of the department. The department only estimates the numbers of eggs available and assumes no responsibility or offers no guarantee that those numbers of eggs will be available. Alligator egg collection permits may be obtained upon application to the department on forms provided by the department. The annual deadline for submitting applications for Alligator Egg Collection Permits is June 1. This program is experimental and may be changed at any time based on biological data to insure for proper management of the wild alligator population.

2. Alligator egg collection permits may be issued by the department provided:

a. permittee is a properly licensed alligator farmer and meets all applicable requirements in Subsection O of these regulations (Alligator Farm Facility Requirements);

b. all land documentation required on the alligator egg collection permit has been presented to the department;

c. department biologists determine the properties described on the permit application are indeed alligator nesting habitat and can sustain alligator egg collections;

d. applicant has obtained all legal and necessary signatures from landowners/land managers.

3. It is unlawful for an alligator farmer or a permitted designated collection agent to collect eggs from properties other than those described in the alligator egg collection permit. Violation of this Part is a class 4 violation as described in Title 56.

4. An alligator farmer or designated collection agent in the act of collecting or possessing alligator eggs must possess on his or her person a copy of the fully executed alligator egg collection permit. The designated collection agent must also possess a valid designated collection agent permit.

Violation of this Part is a class 3 violation as described in Title 56.

5. Collection of wild alligator eggs can only be made after contacting the appropriate regional supervisor of the

Enforcement Division no less than 24 hours prior to each collection trip.

Violation of this Part is a class 3 violation as described in Title 56.

6. Alligator eggs can only be collected from the wild from official sunrise to official sunset and only during the established alligator egg collection season and shall not exceed the number on his Alligator Egg Collection Permit. Violation of this Part is a class 4 violation as described in Title 56.

7. Alligator eggs collected from the wild must be collected and transported in a manner which ensures the greatest survival of viable eggs as determined by department biologists. Violation of this Part is a class 3 violation as described in Title 56.

8. Failure to hatch at least 70 percent of viable alligator eggs collected from the wild shall be considered a waste of Louisiana's natural resources. All alligator egg collection permits shall be revoked and no new permits issued should an alligator farmer be found to waste the resources of this state for two consecutive years.

9. Alligator egg collection permits shall be revoked and no new permits issued to alligator farmers who fail to average a minimum hatching survival rate of 85 percent for two consecutive years.

10. The alligator egg collection permittee and the landowner are responsible for the physical return of the percentage of live alligators to the wild described on the alligator egg collection permit. This requirement is nontransferable. Minimum return rates will be based upon the state average hatching success which is 78 percent. Each alligator shall be returned to the original egg collection area within a maximum time of two years from date of hatching. Each alligator shall be a minimum of 36" and a maximum of 60" (credit will not be given for inches above 60") in size and the returned sex ratio should contain at least 50 percent females. The alligator egg collection permittee/landowner are responsible for and must compensate in kind for alligator mortality which occurs for department authorized return to the wild alligators; while being processed, stored, or transported. The department shall be responsible for supervising the required return of these alligators. A department transfer authorization permit is not required for return to the wild alligators which are delivered to the farm of origin no more than 48 hours prior to being processed for wild release. Releases back to the wild will only occur between March 15 and September 30 of each calendar year provided that environmental conditions as determined by the department are favorable for survival of the released alligators. Should an alligator egg collection permittee be unable to release the required number of alligators to the wild from his own stock, he shall be required to purchase additional alligators from another farmer to meet compliance with the alligator egg collection permit and these regulations, as supervised by the department. Department sanctioned participants in ongoing studies involving survivability and return rates are exempt from these requirements during the period of the study. Violation of this Part is a class 4 violation as described in Title 56.

11. The percentage of alligators to be returned to the wild shall be selected from the healthiest of all alligators of that year class. Abnormal or deformed alligators are not acceptable for release into the wild. It is unlawful for alligators that are to be returned to the wild to be transported

out of state. Violation of this Part is a class 4 violation as described in Title 56.

**O. Alligator Farm Facility Requirements**

1. All first time applicants for a nongame quadruped breeder's or exhibitor's license who will house alligators on their premises shall show compliance of the following minimum facilities as applicable to their particular operation during a required facility examination by department personnel prior to license issuance.

a. Secured premises with adequate barriers to prevent escape of enclosed alligators and entry by alligators from outside the farm and to deter theft of alligators.

b. Source of clean, fresh water which shall be adequate to ensure for proper care of all alligator stock and facilities. This requirement shall be determined by department personnel.

c. Provisions for both dry area and pooled water within the secured area adequate for the numbers of alligators to be housed on the premises. This requirement will be determined by department personnel.

d. Provision for winter protection, either through adequate denning space or an enclosed, controlled-temperature environment of a design acceptable to the department.

e. All controlled-temperature alligator sheds shall be of a design acceptable to the department. Each shed shall be capable of maintaining a minimum constant temperature of 80 degrees Fahrenheit. Minimum space requirements for alligators housed in the shed shall be:

i. one square foot of space shall be required for each alligator less than 24" in length;

ii. three square feet of space shall be required for each alligator measuring 25" to 48" in length;

iii. one additional square foot of space shall be required for each additional six inches of alligator length for alligators above four feet in length.

f. All alligator egg incubators shall be of a design acceptable to the department. Each incubator shall maintain a water and air temperature of 85 to 91 degrees Fahrenheit during the egg incubation.

g. Applicant must be in compliance with all laws and regulations pertaining to zoning, construction, health and environmental standards and must possess any and all applicable permits and licenses.

h. All alligator facilities should be constructed in a suitable location so as to minimize contact with people.

2. Following initial issuance of applicable license, all applicable facility requirements shall be adhered to and department personnel have the authority to inspect any and all of the facilities at any time. Failure to adhere to the requirements shall be a violation of these rules and violators will be given 60 days to correct the problem. Failure to comply shall result in confiscation of all animals and/or closure of all facilities. Violation of this Part is a class 3 violation as described in Title 56.

3. All alligator farmers possessing alligator eggs outside an alligator nest should house these eggs in an incubator providing constant temperature and humidity conditions. All incubators used to incubate alligator eggs shall be of a design to allow for maximum temperature control and conform to department requirements to allow for the maximum hatching success. Violation of this Part is a class 3 violation as described in Title 56.

4. All alligator farmers possessing alligator hatchlings shall house hatchlings in controlled environmental chambers capable of maintaining a minimum temperature of 80 degrees Fahrenheit year round and containing dry and wet areas of sufficient surface area to permit all alligators to completely submerge in water. All alligators 48" or less in length shall be housed in environmental chambers unless a special permit is issued by the department to move them to outside growth areas. Violation of this Part is a class 3 violation as described in Title 56.

5. Alligator farmers shall house alligators of different lengths into at least three groups, providing separation for all alligators less than two feet in length, two to four feet in length, and over four feet in length. Land and water areas sufficient for complete submersion or complete exit from water shall be provided for each group of alligators held. Violation of this Part is a class 3 violation as described in Title 56.

6. All facilities, alligator stock, and records are subject to examination by department personnel prior to permitting and thereafter during farm operation. Violation of this Part is a class 3 violation as described in Title 56.

7. It shall be unlawful for alligator eggs or alligators to be moved from a licensed premises without permitting/approval of the department. Violation of this Part is a class 3 violation as described in Title 56.

8. Any alligator egg or alligator raised on an alligator farm shall be cared for under conditions that do not threaten the survival of such egg and alligator as determined by the biological staff of the Fur and Refuge Division. In making such determination, Fur and Refuge Division biologists shall take into consideration sanitary conditions, temperature control, feeding, overcrowding and other conditions which effect the survival of alligator eggs and alligators. If the biological staff of the Fur and Refuge Division determines that the survival of any alligator egg or alligator is threatened due to the conditions on an alligator farm, the department shall notify the alligator farmer and shall provide the farmer with 60 days to take corrective action. If the farmer fails to take corrective action within 60 days, the department shall have the authority to confiscate any alligator egg or alligator which remains under conditions that threaten the survival of such alligator egg or alligator and to dispose of such alligator egg or alligator as the department deems necessary. Violation of this part is a class 4 violation as described in Title 56.

**P. Exceptions**

1. The department or an authorized representative of the department may take by any means and possess alligators or parts of alligators while in the performance of official duties.

2. These regulations shall not prohibit a person from killing an alligator in immediate defense of his or her life or the lives of others. Alligators killed under this provision must be reported to the department within 24 hours.

**Q. Penalty for Violation**

1. In order to facilitate greater control over alligator trafficking, the Louisiana Department of Wildlife and Fisheries finds that public welfare imperatively requires emergency action when the provisions of these regulations are violated.

2. In addition to all penalties set forth herein, violators may be subject to criminal prosecution under provisions of the Louisiana Revised Statutes, particularly Titles 14 and 56 and under federal law.

3. In addition to all other penalties provided by these rules and by statute, violation of any part of these regulations may result in the suspension and/or revocation of any or all alligator licenses/permits held by the violator and, as further penalty, for serious, repeat, or multiple violations, the department shall have the right to deny a violator any and all licenses/permits relating to alligators for a period not to exceed three years.

James H. Jenkins, Jr.  
Chairman

### DECLARATION OF EMERGENCY

#### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Furbearer Trapping Season, 1992-93

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Wildlife and Fisheries Commission to use emergency procedures to set the furbearer trapping season and the rules regulating it, and R.S. 56:260, the 1992-93 furbearer trapping season is hereby established in accordance with the following regulations:

The season for the trapping of furbearers by licensed trappers shall be:

**NORTH ZONE** - All furbearers, November 20, 1992 through February 15, 1993;

**SOUTH ZONE** - All furbearers, December 1, 1992 through February 28, 1993;

**EXPERIMENTAL SEASON** - February 16, 1993 through March 15, 1993. Soft catch (padded jaw) and non-locking snare only.

The boundary between the North and South Zones will be Interstate Highway 10 from the Texas state line to Baton Rouge; Interstate Highway 12 from Baton Rouge to Slidell; and Interstate Highway 10 from Slidell to the Mississippi line.

Bobcat and otter by federal restrictions imposed by the Cities Scientific Authority require the placement of an export tag prior to out-of-state shipment.

James H. Jenkins, Jr.  
Chairman

### DECLARATION OF EMERGENCY

#### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Waterfowl Hunting Seasons, 1992-93

In accordance with the emergency provision of R.S. 49:953(B) of the Administrative Procedure Act, and under the authority of R.S. 56:115, the secretary of the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission

hereby adopt the following emergency rule.

The hunting seasons for ducks, coots and geese during the 1992-93 hunting season shall be as follows:

#### MIGRATORY GAME BIRDS

**Ducks and Coots:** (Closed Season on Canvasback)

**West Zone:** (30 days) November 21 - December 5, and December 26 - January 9.

**East Zone:** (30 days) November 21 - November 27, and December 26 - January 17.

**Catahoula Lake Zone:** (30 days) November 21 - December 20.

**Daily Bag Limits:** The daily bag limit on ducks is three and may include no more than two mallards (no more than one of which may be a female), one black duck, two wood ducks, one pintail and one redhead. Daily bag limit on coots is 15.

**Mergansers:** The daily bag limit for mergansers is five, only one of which may be a hooded merganser. Merganser limits are in addition to the daily bag limit for ducks.

**Possession Limit:** The possession limit on ducks, coots and mergansers is twice the daily bag limit.

**Geese:** Statewide Season: November 21 - December 12, December 19 - February 4, and February 5 - February 14.

Daily bag limit is seven in the aggregate of blue, snow and white-fronted geese of which not more than two may be white-fronted (specklebellies). During the last 10 days (February 5 - February 14), only blue and snow geese may be taken. During the Experimental Canada Goose Season (January 20 - January 28), the daily bag limit for Canada and white-fronted geese is two, of which not more than one can be a Canada goose. Possession limit is twice the daily bag limit.

**Experimental Canada Goose Season:** January 20 - January 28

An Experimental Canada Goose Season will be open in a portion of southwest Louisiana. The area shall be described as follows:

Easterly from the Texas line along Highway 12 to Ragley; then easterly along U.S. 190 from Ragley to its junction with I-49 near Opelousas; then south along I-49 to its junction with Highway 167 near Lafayette; then south along Highway 167 from Lafayette to its junction with Highway 82 at Abbeville; then south and west along Highway 82 to the Intracoastal Waterway at Forked Island; then westerly along the Intracoastal Waterway from Forked Island to the junction of the Intracoastal Waterway and the Calcasieu Ship Channel; then south along the west side of the Calcasieu Ship Channel to Highway 82 at Cameron; then westerly along Highway 82 to the Texas line. All lands lying within these boundaries shall be open for the experimental Canada goose season except all open waters of Lake Arthur and the Mermentau River from the Highway 14 bridge southward.

A special permit shall be required to participate in the experimental Canada Goose Season. A permit is required of everyone, regardless of age, and a non-refundable \$5 administrative fee will be charged. This permit may be obtained from the Lake Charles, Opelousas, Baton Rouge Offices.

Return of harvest information requested on permit is mandatory. Failure to submit this information to the department by February 15, 1993 will result in the hunter not being allowed to participate in the Experimental Canada Goose Season the following year.

**Shooting Hours:** One half hour before sunrise to sunset.

James H. Jenkins, Jr.  
Chairman

# Rules

## RULE

### Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences

#### Pesticide - Commercial Applicators Certification (LAC 7:XXIII.Chapter 131)

The Department of Agriculture and Forestry hereby adopts rules revising LAC 7:XXIII.Chapter 131. These rules will establish certification requirements for yearly training courses on off-target aerial pesticide applications, provide for yearly registration of commercial aerial applicators using any of five specifically named pesticides, along with a spray height limit for same, establish standards for booms, nozzles and pesticide concentrations on fixed wing aircraft, prohibit aerial applications in the rain and establish buffer zones between targets and adjoining areas. These proposed rules comply with R.S. 3:3201 et seq.

#### Title 7

### AGRICULTURE AND ANIMALS

#### Part XXIII. Pesticide

### Chapter 131. Advisory Commission on Pesticides

#### §13123. Certification of Commercial Applicators

##### A. 1-3 ...

4. Commercial aerial pesticide applicators, with the single exception of aerial mosquito pest control applicators, must attend department-approved off-target training courses once each year to maintain their certification as a commercial aerial applicator.

##### B.-G. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:3203, R.S. 3:3242 and R.S. 3:3249.

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture and Forestry, Advisory Commission on Pesticide, LR 9:169 (April 1983), amended LR 10:193 (March 1984), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, LR 18: (September 1992).

#### §13139. Restrictions on Application of Certain Pesticides

##### A.-J. ...

K. Commercial aerial pesticide applicators who apply mixtures containing 1:1-Dimethyl-4, 4'-Bipyridinium (cation) dichloride, Isopropylamine salt of glyphosate, Sulfosate Trimethylsulfoniumcarboxymethylaminomethylphosphonate, 4-(2, 4-Dichlorophenoxy) butyric acid, and 2,4-Dichlorophenoxyacetic acid (commonly known as Gramoxone, Roundup, Touchdown, 2, 4-DB and 2, 4-D, respectively) must register with the department once yearly on department approved forms prior to making any applications of these chemicals. Effective January 1, 1993, N-(3,4-dichlorophenyl) propionamide (commonly known as Propanil) must be registered under the provisions of this Subsection.

L. Commercial aerial pesticide applicators applying any concentrations of agricultural chemicals shall not apply these chemicals from a height of greater than 18 feet above the target field crops.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:3203.

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture and Forestry, Advisory Commission on Pesticide, LR 9:169 (April 1983), amended LR 10:193 (March 1984), LR 11:219 (March 1985), LR 11:942 (October 1985), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, LR 18: (September 1992).

#### §13140. Fixed Wing Aircraft; Standards for Commercial Aerial Pesticide Applications

A. Commercial aerial pesticide applicators, with the single exception of aerial mosquito pest control applicators, shall adhere to the following standards for fixed wing aircraft, regarding boom configurations, nozzle angles, and volume of pesticides per acre.

1. The effective spray boom length shall not exceed 75 percent of the length of the wing (wing tip to wing tip) on which the boom is attached.

2. Except as follows, all spray nozzles shall be oriented to discharge straight back toward the rear of the aircraft. When applying insecticides to cotton, aircraft with a maximum flying speed of less than 120 miles per hour shall have the option to position nozzles at an angle of 45° down from straight back or 45° back from straight down.

3. The spray boom pressure shall not exceed a maximum of 40 pounds per square inch (40 PSI).

4. When disc and core type nozzles are used for herbicide, desiccant or defoliant applications, a number 46 or larger core must be used.

5. Unless further restricted by other regulations or labeling, the chemicals listed in §13139.K above shall be applied in a minimum of five gallons of total spray mix per acre. All other agriculture pesticides, unless further restricted by other regulations or labeling, shall be applied in a minimum of one gallon of total spray mix per acre.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:3203.

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, LR 18: (September 1992).

#### §13142. Special Restrictions on Commercial Aerial Pesticide Applications; Applications in the Rain and Buffer Zones

A. All aerial pesticide applicators are prohibited from making an application of any pesticide while it is raining. This prohibition shall not apply to a drizzle of rain so light as to not cause puddling or run-off water from the field.

B. Unless further restricted by other regulations or labeling, commercial aerial pesticide applicators, with the single exception of aerial mosquito pest control applicators, are prohibited from making an application of any pesticide within 100 feet from the edge of the swath to any inhabited structure, including but not limited to inhabited dwellings, schools, hospitals, nursing homes and places of business. No aerial applicator, with the single exception of aerial mosquito pest control applicators, shall apply pesticides within 1000 feet of any school grounds during normal school hours.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:3203.

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, LR 18: (September 1992).

Bob Odom  
Commissioner

**RULE**

**Department of Agriculture and Forestry  
Office of Agricultural and Environmental Sciences  
Seed Commission**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. and R.S. 3:1433, notice is hereby given that the Department of Agriculture and Forestry, Seed Commission amended LAC 7:XIII.8763.

**Title 7  
AGRICULTURE AND ANIMALS  
Part XIII. Seeds**

**Chapter 87. Rules and Regulations Pursuant to the Louisiana Seed Law  
Subchapter C. Requirements for Certification of Specific Crops/Varieties**

**§8763. Cottonseed Seed Certification Standards**

**A. Field Standards**

Factor	Breeder	Foundation	Registered	Certified
Isolation		15 ft.	15 ft.	15 ft.
Other varieties & off-type plants	None	None	1 plant per acre	5 plants per acre
Noxious weeds: Cocklebur	None	5 plants per acre	8 plants per acre	10 plants per acre

\*\*Fields entered for certification must be isolated at least 600 feet from Sea Island cotton, red leaf cotton, or other cottons which vary greatly in plant characteristics from the variety entered for certification, and at least one-half mile from *G. barbadense* and interspecific hybrids involving *G. barbadense*.

**B. Handling and Storage Requirements**

1. Ginning. Cottonseed entered in all classes of certification shall be ginned on a thoroughly cleaned, one-variety gin approved by the Department of Agriculture and Forestry prior to ginning seed to be certified. With special permission of the Department of Agriculture and Forestry,

a. cottonseed for all classes of certification may be ginned on thoroughly cleaned, mixed variety gins either with a notarized ginner's agreement provided by the Louisiana Department of Agriculture and Forestry or an inspector of the Louisiana Department of Agriculture and Forestry shall be present if cottonseed for certification is ginned.

b. cottonseed produced for only the certified class may be ginned on a mixed-variety gin if a minimum of three bales are "blown" through the gin prior to catching of the cottonseed to be certified. An inspector of the Louisiana Department of Agriculture and Forestry may be present if cottonseed for certification is ginned under special permission.

\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:1433.

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture and Forestry, LR 8:570 (November 1982) amended LR 9:199 (April 1983), LR 10:737 (October 1984), repealed and repromulgated LR 12:825 (December 1986), amended LR 13:156 (March 1987), LR 13:232 (April 1987), LR 18: (September 1992).

Bob Odom  
Commissioner

**RULE**

**Board of Elementary and Secondary Education**

**Migrant Education State Plan, FY-93**

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published in the June 20, 1992 issue of the *Louisiana Register*, and under the authority contained in the Louisiana Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted the ESEA Chapter 1 FY-93 Migrant Education State Plan. This is an amendment to the Louisiana Administrative Code. A copy of the Migrant Education State Plan for FY 1993 may be obtain from the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70804 (504) 342-5015. Please use Log No. 9209#065 when referring to this document.

**Title 28  
EDUCATION**

**Part I. Board of Elementary and Secondary Education  
Chapter 9. Bulletins, Regulations, and State Plans  
Subchapter B. State Plans**

**§933. Migrant Education State Plan**

A. The ESEA Chapter 1 FY-93 Migrant Education State Plan is adopted.

**AUTHORITY NOTE:** Promulgated in accordance with P.L. 100-297; R.S. 17:7(3).

**HISTORICAL NOTE:** Amended by the Board of Elementary and Secondary Education, LR 18: (September 1992).

Carole Wallin  
Executive Director

**RULE**

**Board of Elementary and Secondary Education**

**State Plan for Adult Education**

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to Notice of Intent published in the June 20, 1992 issue of the *Louisiana Register*, and under the authority contained in the Louisiana Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted the Amended State Plan for Adult Education, FY 1989-1993. This amended State Plan was also adopted as an emergency rule and printed in full in the April, 1992 issue of the



Louisiana Register. This is an amendment to the Louisiana Administrative Code.

**Title 28  
EDUCATION**

**Part I. Board of Elementary and Secondary Education  
Chapter 9. Bulletins, Regulations, and State Plans  
Subchapter B. State Plans**

**§931. Adult Education State Plan**

A. The amended Adult Education State Plan, FY 1989-1993 is adopted.

**AUTHORITY NOTE:** Promulgated in accordance with P. L. 100-297; R. S. 17:7(3); R. S. 17:14.

**HISTORICAL NOTE:** Amended by the Board of Elementary and Secondary Education, LR 18: (September 1992).

Carole Wallin  
Executive Director

**RULE  
Board of Elementary and Secondary Education**

**Textbook Adoption Cycle**

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published in the June 20, 1992 issue of the *Louisiana Register*, and under the authority contained in the Louisiana Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted an amendment to the Textbook Adoption Cycle which changed the Textbook Adoption Cycle from a six-year to a seven-year adoption cycle. This is an amendment to Bulletin 1794.

Amendment to Bulletin 1794, Textbook Adoption Standards and Procedures:

Beginning July 1, 1992 and every year thereafter, the Textbook Adoption Cycle will be for a period of seven years with the categories each year as follows:

1991	1992	1993	1994	1995	1996	1997
Social Studies K-12 Special Ed	Language and Composition  Literature Spelling Special Ed  Computer Literacy	Reading Special Ed	Science K-12 Health and Physical Education Special Ed  Computer Literacy	Vocational Agriculture  Business Education Home Economics	Foreign Language Handwriting Music/Fine Arts  Computer Literacy	Math K-12 Computer Science

**AUTHORITY NOTE:** R.S. 17:6(A)(9)

Carole Wallin  
Executive Director

**Department of Environmental Quality  
Office of Air Quality and Radiation Protection**

**Radiation Fee Schedule (NE05) (LAC 33:XV.Chapter 25)**

*(Editor's Note: The following Appendix which appeared on pages 719 - 723 of the July 20, 1992 Louisiana Register, is being republished to correct typographical errors.)*

**Title 33  
ENVIRONMENTAL QUALITY  
Part XV. Radiation Protection**

**Chapter 25. Fee Schedule**

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**APPENDIX A  
RADIATION PROTECTION PROGRAM FEE SCHEDULE**

	Application Fee	Annual Maintenance Fee
<b>I. Radioactive Material Licensing</b>		
<b>A. Medical licenses:</b>		
1. Therapy		
a. Teletherapy	530	530
b. Brachytherapy	530	530
2. Nuclear medicine diagnostic only	650	650
3. Nuclear medicine diagnostic/therapy	700	700
4. Nuclear pacemaker implantation	260	260
5. Eye applicators	260	260
6. In-vitro studies or radioimmunoassays or calibration sources	260	260
7. Processing or manufacturing and distribution of radiopharmaceuticals	1,030	875
8. Mobile nuclear medicine services	1,030	875
9. "Broad scope" medical licenses	1,030	875
10. Manufacturing of medical devices/sources	1,200	1,000
11. Distribution of medical devices/sources	900	750
12. All other medical licenses	290	290
<b>B. Source material licenses</b>		
1. For mining, milling, or processing activities, or utilization which results in concentration or redistribution of naturally occurring radioactive material	5,200	5,200
2. For the concentration and recovery of uranium from phosphoric acid as "yellow cake" (powered solid)	2,600	2,600
3. For the concentration of uranium from or in phosphoric acid	1,300	1,300
4. All other specific "source material" licenses	260	260
<b>C. Special nuclear material (SNM) licenses:</b>		
1. For use of SNM in sealed sources contained in devices used in measuring systems	400	400
2. SNM used as calibration for reference sources	260	260
3. All other licenses for use of SNM in quantities not sufficient to form a critical mass, except as in I.A.4, I.C.1, and 2	260	260

**APPENDIX A  
RADIATION PROTECTION PROGRAM FEE SCHEDULE**

	Application Fee	Annual Maintenance Fee
<b>D. Industrial radioactive material licenses:</b>		
1. For processing or manufacturing for commercial distribution	5,150	3,875
2. For industrial radiography operations performed in a shielded radiography installation(s) or permanently designated areas at the address listed in the license	875	690
3. For industrial radiography operations performed at temporary job-site(s) of the licensee	2,580	1,940
4. For possession and use of radioactive materials in sealed sources for irradiation of materials where the source is not removed from the shield and is less than 10,000 Curies	1,300	650
5. For possession and use of radioactive materials in sealed sources for irradiation of materials when the source is not removed from the shield and is greater than 10,000 Curies, or where the source is removed from the shield	2,580	1,290
6. For distribution of items containing radioactive material	1,300	1,300
7. Well-logging and subsurface tracer studies		
a. Collar markers, nails, etc. for orientation	260	260
b. Sealed sources less than 10 Curies and/or tracers less than or equal to 500 mCi	775	775
c. Sealed sources of 10 Curies or greater and/or tracers greater than 500 mCi but less than 5 Ci	1,300	1,300
d. Field flood studies and/or tracers equal to or greater than 5 Curies	1,950	1,950
8. Operation of a nuclear laundry	5,150	2,580
9. Industrial research and development of radioactive materials or products containing radioactive materials	650	650
10. Academic research and/or instruction	530	530
11. Licenses of broad scope:		
a. Academic, industrial, research and development, total activity equal to or greater than 1 Curie	1,300	1,300
b. Academic, industrial, research and development, total activity less than 1 Curie	775	775
12. Gas chromatographs, sulfur analyzers, lead analyzers, or similar laboratory devices	260	260
13. Calibration sources equal to or less than 1 Curie per source	260	260
14. Level or density gauges	400	400
15. Pipe wall thickness gauges	530	530
16. Soil moisture and density gauges	400	400
17. NORM decontamination/maintenance		
a. at permanently designated areas at the location(s) listed in the license	2,500	1,250
b. at temporary jobsite(s) of the licensee	2,500	1,500
18. Commercial NORM storage	1,250	1,250
19. All other specific industrial licenses except otherwise noted	530	530
<b>E. Radioactive waste disposal licenses:</b>		
1. Commercial waste disposal involving burial	675,000	675,000

**APPENDIX A  
RADIATION PROTECTION PROGRAM FEE SCHEDULE**

	Application Fee	Annual Maintenance Fee
2. Commercial waste disposal involving incineration of vials containing liquid scintillation fluids	5,150	2,580
3. All other commercial waste disposal involving storage, packaging and/or transfer	2,580	2,580
F. Civil defense licenses	315	260
G. Teletherapy service company license	1,300	1,300
H. Consultant licenses		
1. No calibration sources	130	75
2. Possession of calibration sources equal to or less than 500 mCi each	190	130
3. Possession of calibration sources greater than 500 mCi	260	190
4. Installation and/or servicing of medical afterloaders	350	300
<b>ii. Electronic Product Registration</b>		
1. Medical diagnostic x-ray (per registration)	85	85
2. Medical therapeutic x-ray (per registration)		
a. below 500 kVp	200	200
b. 500 kVp to 1 MeV (including accelerator and Van de Graaf)	400	400
c. 1 MeV to 10 MeV	600	600
d. 10 MeV or greater	800	800
3. Dental x-ray (per registration)	75	70
4. Veterinary x-ray (per registration)	75	75
5. Educational institution x-ray (teaching unit, per registration)	125	75
6. Industrial accelerator (includes Van de Graaf machines and neutron generators)	400	400
7. Industrial radiography (per registration)	200	200
8. All other x-ray (per registration) except as otherwise noted	90	90
<b>iii. General licenses</b>		
A. NORM		
1. 1-5 wellheads per NORM contaminated field	100	100
2. 6-20 wellheads per NORM contaminated field	500	500
3. Greater than 20 wellheads per NORM contaminated field	1,500	1,500
4. NORM site as otherwise defined in LAC 33:XV.1403 and not exempted by LAC 33:XV.1404	100	100
B. Tritium sign	75	0
C. All other general licenses which require registration	100	100
<b>IV. Reciprocal Recognition</b>		
The fee for reciprocal recognition of a license or registration from another state or the NRC is the annual fee of the applicable category. The fee covers activities in the state of Louisiana for one year from the date of receipt.		
<b>V. Shielding Evaluation (per room)</b>		
A. Diagnostic	100	*

APPENDIX A RADIATION PROTECTION PROGRAM FEE SCHEDULE		
	Application Fee	Annual Maintenance Fee
B. Therapeutic (below 500 kVp)	150	*
C. Therapeutic (500 kVp to 1 MeV)	250	*
D. Therapeutic (1 MeV to 10 MeV)	350	*
E. Therapeutic (10 MeV or greater)	750	*
F. Industrial and industrial radiography	350	*
<b>VI. Device, Product, or Sealed Source Evaluation</b>		
A. Device evaluation (each)	700	*
B. Sealed source design evaluation (each)	450	*
C. Update sheet	150	*
VII. Testing to determine qualifications of employees, per test administered	128	*
VIII. Nuclear electric generating station (per site) Located in Louisiana		283,500
Located near Louisiana (Plume Exposure Pathway Emergency Planning Zone - includes area in Louisiana)		206,000
Uranium Enrichment Facility		50,000
<b>IX. La Radiation Protection Division Laboratory Analysis Fees</b>		

Sample Type	Analysis	Unit Price
Air filters: Particulate	Gross beta	55
	Gamma	159
Charcoal cartridge	Gamma/I-131	159
Milk	Gamma	170
	I-131	181
Water	Gamma	181
	I-131	181
	H-3	68
Sediment	Gamma	192
Vegetation	Gamma	181
Fish	Gamma	192
Leak test	Gamma	159
	H-3	68
NORM sample Produced water	Gamma	170
	Gamma	181
* charges are one time and do not recur		

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:719 (July

1992), repromulgated LR 18: (September 1992).

James B. Thompson, III  
Assistant Secretary

**RULE**

**Department of Environmental Quality  
Office of the Secretary**

Credit for Recycling Equipment  
(LAC 33:VII.10405) (OS 11)

*(Editor's Note: A portion of a rule, which appeared on page 841 of the August 20, 1992 Louisiana Register, is being republished to correct a typographical error.)*

**Title 33  
ENVIRONMENTAL QUALITY  
Part VII. Solid Waste  
Subpart 2. Recycling**

**Chapter 104. Credit for Recycling Equipment  
§10405. Definitions**

For the purpose of this Chapter the terms below shall have the meaning specified herein as follows:

*Post-consumer Waste Material*—any product generated by a business or consumer which has served its intended end use, and which has been separated from solid waste for the purposes of collection, marketing and disposition and which does not include secondary waste material, hazardous waste, or demolition waste.

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**AUTHORITY NOTE:** Promulgated in accordance with R.S. 47:6005.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 18:841 (August 1992), repromulgated LR 18: (September 1992).

James B. Thompson, III  
Assistant Secretary

**RULE**

**Office of the Governor  
Commission on Law Enforcement  
and Administration of Criminal Justice  
Sentencing Commission**

The Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, Louisiana Sentencing Commission, has amended the Felony Sentencing Guidelines, LAC Title 22:IX. Subpart 1, under the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

**Title 22  
CORRECTIONS, CRIMINAL JUSTICE  
AND LAW ENFORCEMENT**

**Part IX. Sentencing Commission  
Subpart 1. Felony Sentencing Guidelines**

**Chapter 2. Determining Sentences Under the Sentencing Guidelines**

**§205. Criminal History Index Classification System**

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**B. Definitions**

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2. *Crime-free time* means a period of time during which the offender was not in a *custody status*, as defined

below, and during which the offender has not committed an offense which subsequently results in a felony or misdemeanor conviction, as defined herein.

3. *Custody status* means any form of criminal justice supervision resulting from a guilty plea, conviction, or an adjudication of delinquency including post conviction release or bail, confinement, probation, or parole.

4. *Felony adjudication* means any unexpunged adjudication for delinquency by a court exercising juvenile jurisdiction:

a. for the offense of first degree murder, second degree murder, manslaughter, aggravated rape, forcible rape, simple rape, sexual battery, aggravated kidnapping, or armed robbery, or

b. for any felony offense if the defendant was under the age of 26 years at the time of the commission of the current offense, or

c. for any felony offense if the defendant was 26 years of age or older at the time of the commission of the current offense and the defendant previously had been convicted as an adult of a felony or a misdemeanor in which an element involved the use of a dangerous weapon.

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6. *Misdemeanor adjudication* means an unexpunged adjudication for delinquency by a court exercising juvenile jurisdiction for an offense which, if committed by an adult, would be a misdemeanor, as defined herein.

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**C. Criminal History Index Factors**

1. The criminal history index is based on points derived from the following factors:

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c. prior applicable adjudications of delinquency.

d. custody status at the time of the commission of the offense serving as the basis for the current conviction.

2. The Criminal History Index is composed of seven classes ranging from Class A, most serious criminal history, to Class G, least serious criminal history.

**3. Method of Calculation**

a. Prior felony convictions and adjudications: Score all prior felony convictions and applicable felony adjudications of delinquency by the number of points ascribed to the seriousness level of the offense of conviction as set forth in Chapter 4, §402.A and C. If the prior felony conviction is based on an unranked offense, i.e., not ranked on the crime seriousness ranking table, the court may assign a seriousness score of one point to the conviction. If the court believes that a seriousness score of one point significantly under represents the seriousness of the prior conviction, the judge may use the seriousness score of an analogous offense, provided the court states for the record why the unranked offense is analogous to the ranked offense which serves as the basis for the score.

b. Prior misdemeanor convictions and adjudications: Add one-fourth (.25) point, not to exceed a total of one point, for each of the following misdemeanor convictions or adjudications:

i. any misdemeanor conviction for an offense in Louisiana Revised Statutes Title 14 or the Uniform Controlled Dangerous Substances Law of Louisiana Revised Statutes Title 40 or any local ordinance which is substantially similar to an offense in Title 14 or the Uniform Controlled Dangerous Substances Law of Title 40.

ii. any misdemeanor conviction for a traffic offense in Louisiana Revised Statutes Title 32 or local traffic ordinance substantially similar to any Title 32 traffic offense if the current offense of conviction involves the operation of a motor vehicle.

iii. any misdemeanor adjudication if, at the time of the commission of the current offense, the offender was under age 17, and is being prosecuted as an adult.

c. Prior similar criminal behavior: Add one-half (.5) point for each prior felony conviction or adjudication if the prior offense of conviction or adjudication is in the same "crime family" as the current offense of conviction. See Chapter 4, §402.D., Crime Family Table. The court also may add the additional one-half point if the court finds that the prior conviction or adjudication was analogous to the offenses in the crime family of the current offense, and states for the record the reasons for the finding.

d. Offenses committed during custody status: Add one point if the current felony offense was committed while the offender was in a "custody status."

e. Limitation on prior misdemeanor convictions: Points added to an offender's criminal history index score for misdemeanor convictions or adjudications shall not increase the offender's criminal history index more than one level.

f. Multiple convictions on same day: Count only the most serious conviction or adjudication if more than one conviction or adjudication occurred on the same day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:321-329.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, Louisiana Sentencing Commission, LR 18:46 (January 1992), repromulgated LR 18:166 (February 1992), amended LR 18: (September 1992).

#### §209. Departures From the Designated Sentence Range

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C. *Mitigating circumstance* means a factor which is present to a significant degree which lessens the seriousness of the offense below the level of the typical case arising under the offense of conviction. Factors which constitute a legal defense shall not be considered mitigating circumstances. The following factors constitute mitigating circumstances:

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17. The offender has spent a significant period of time free of any custody status during which he has not engaged in any criminal activity resulting in a felony or misdemeanor conviction, as defined herein. If deemed appropriate, the court may consider the suggested crime-free time reduction factors in Chapter 4, §402.E.

18. Any other relevant mitigating circumstances which distinguish the case from the typical case of the offense of conviction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:321-329.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, Louisiana Sentencing Commission, LR 18:47 (January 1992), amended LR 18: (September 1992).

#### §215. Concurrent and Consecutive Sentences

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C. Procedure for Imposing Consecutive Sentences. If the court finds that a consecutive sentence should be im-

posed, the following procedures apply to determine the base sentence range and the recommended sentence.

1. The base sentence range is established by determining, from the appropriate cell in the grid, the designated sentence range for the most serious offense of conviction. The most serious offense is the offense with the longest statutory term of incarceration or the offense with the longest term of incarceration within the designated sentence range under the guidelines, whichever is greater.

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AUTHORITY NOTE: Promulgated in accordance with R.S. 15:321-329.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, Louisiana Sentencing Commission, LR 18:49 (January 1992), amended LR 18: (September 1992).

### Chapter 4. Louisiana Sentencing Guidelines Tables

#### §401. Criminal Seriousness Tables

##### A. Crime Seriousness Master Ranking List

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*Negligent Homicide* (LRS 14:32): Level 4.

*Possession with Intent to Distribute Marijuana* (LRS 40:966(A)(1)): Level 4.

*Solicitation for Murder* (LRS 14:28.1): Level 4.

*Possession of Drugs* (Sched. II, Narcotic) (LRS 40:967(C)): Level 5.

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##### B. Felonies Ranked Numerically by Statute Number

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*Negligent Homicide* (LRS 14:32): Level 4.

*Possession with Intent to Distribute Marijuana* (LRS 40:966(A)(1)): Level 4.

*Solicitation for Murder* (LRS 14:28.1): Level 4.

*Possession of Drugs* (Sched. II, Narcotic) (LRS 40:967(C)): Level 5.

\*\*\*

##### C. Ranked Felonies in Alphabetical order

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*Negligent Homicide* (LRS 14:32): Level 4.

*Possession with Intent to Distribute Marijuana* (LRS 40:966(A)(1)): Level 4.

*Solicitation for Murder* (LRS 14:28.1): Level 4.

*Possession of Drugs* (Sched. II, Narcotic) (LRS 40:967(C)): Level 5.

\*\*\*

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:321-329.

HISTORICAL NOTE: Promulgated by the Office of Governor, Commission on Law Enforcement and Administration of Criminal Justice, Louisiana Sentencing Commission, LR 18:50 (January 1992), amended LR 18: (September 1992).

#### §402. Criminal History Tables

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##### D. Crime Family Table

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*Negligent Homicide* (LRS 14:32): Level 4.

*Possession with Intent to Distribute Marijuana* (LRS 40:966(A)(1)): Level 4.

*Solicitation for Murder* (LRS 14:28.1): Level 4.

*Possession of Drugs* (Sched. II, Narcotic) (LRS 40:967(C)): Level 5.

\*\*\*

E. Crime-Free Time

Amount of Crime-Free Time	Suggested Multiplication Factor
Less than 5 years	1 (Full value)
5 years to 10 years	.75 (Reduced by one-fourth)
Over 10 years but less than 20 years	.50 (Reduced by one-half)
20 years or more	.10 (Reduced by 90%)

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AUTHORITY NOTE: Promulgated in accordance with R.S. 15:321-329.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, Louisiana Sentencing Commission, LR 18:50 (January 1992), amended LR 18: (September 1992).

§403. Tables for Determining Designated Sentence

A. Sentencing Guidelines Grid

	A (5.0 +)	B (4.9-4.0)	C (3.9-3.0)	D (2.9-2.0)	E (1.9-1.0)	F (0.9-0.1)	G (0)
0 MURDER AG RAPE DIST DRUGS SCH I INARC AG KIDNAPPING	LIFE	LIFE	LIFE	LIFE	LIFE	LIFE	LIFE
1 ARM ROBBERY FURC RAPE MANSLAUGHTER AG BURGLARY KIDNAPPING II	360-330	300-270	240-210	180-150	126-96	102-72	90-60
2 AG BATTERY ROBBERY I DIST DRUGS SCH II INARC SIMP RAPE	240-210	180-150	126-96	108-84	84-72	72-60	60-36
3 MOLEST JUVEN PURSE SNATCH BATTERY II SIMP BURGLARY INHAB DWELL. SIMP ESCAPE	144-120	108-84	84-72	66-54	60-48	54-36	48-24
4 CARNAL KNOWL OF JUVENILE SIMP BURGLARY INHAB DWELL I > = 30,000	120-96	84-66	72-54	42-30	36-24	36-18	36-18
5 FORGERY IND BEHAV JUV ILL POSS STOL GDS I > = 300 THEFT I > = 300	72-60	66-54	46-36	36-24	30-18	(30-18)	(30-15)
6 SIMP ARS. I > = 500 UNLAW ENTRY PL BUS SIMP CRIM DRUG PROP II > = 300	60-48	30-24	24-18	(24-18)	(24-15)	(24-12)	(24-12)
7 ILL POSS STOL GOODS II > = 100 POSS DRUGS SCH I, Non-Narcotic THEFT II > = 100	48-36	24-18	(24-18)	(24-15)	(21-12)	(21-12)	(21-12)
8 CONTRABAND POSS DRUGS SCH II, Non-N, III, IV SIMP ARS. II < 300	36-24	(24-18)	(24-15)	(24-15)	(18-12)	(18-12)	(18-12)
9 CRIM ADMIT NATURE PROSTITUTION SIMP ESCAPE SIMP POSS MARI	24-18	(24-15)	(24-12)	(24-12)	(15-12)	(15-12)	(15-12)

Reverse dotted line      Heavy Dashed Line

\* Most frequently occurring offenses for each level are listed.

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E. Intermediate Sanction Definitions

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Jail: Incarceration not in custody of the Department of Public Safety and Corrections. If the court desires to sentence an offender to less than one month of jail time, the offender should receive a proportionate reduction in the number of sanction unit credits. When jail is used as an intermediate sanction, sanction unit credit is based on the number of days or months which the offender will actually serve, deducting the amount of anticipated good time credit which the offender will earn if he serves his sentence on good behavior.

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AUTHORITY NOTE: Promulgated in accordance with R.S. 15:321-329.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, Louisiana Sentencing Commission, LR 18:50 (January 1992), amended LR 18: (September 1992).

Michael A. Ranatza  
Executive Director

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RULE

Department of Health and Hospitals  
Board of Nursing

Controlled Dangerous Substances

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, hereby adopts LAC 48:I.Chapter 39.

In accordance with the regulations and licensing authority contained in Louisiana Revised Statutes, Title 40, §§961 - 1036, and Title 46, §51; LAC 48:I.Chapter 39, Controlled Dangerous Substances are being adopted. These regulations concern the licensing and certification of parties authorized to engage in the manufacture, distribution, or dispensing of controlled dangerous substances.

The full text of these final rules may be obtained from the Office of the State Register, 1051 North Fifth Street, Baton Rouge, LA (504)342-5015. Please refer to Log 9209#074 when requesting a copy of this rule.

J. Christopher Pilley  
Secretary

RULE

Department of Health and Hospitals  
Board of Physical Therapy Examiners

Notice is hereby given, in accordance with R.S. 49:950 et seq., that the Board of Physical Therapy Examiners (Board), pursuant to the authority vested in the board by R.S. 2401.2A(3) and the provisions of the Administrative Procedure Act, has amended the rules as set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIV. Board of Physical Therapy Examiners

Subpart 1. Licensing and Certification

Chapter 1. Physical Therapists

Subchapter C. Graduates of Foreign Physical Therapy School

§115. Qualifications for License

A. To be eligible for a license, a foreign graduate applicant shall:

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4. have achieved passing scores on standardized English proficiency examinations as approved by the board if



English is not the applicant's native language;  
 5. have indisputable documentation (with notarized English translation) that he has passed licensure or certification requirements of and is in good standing with the physical therapy licensing or certifying agency in his country of education or home country.

\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:2401. 2A(3).

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:744 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 17:662 (July 1991), LR 18: (September 1992).

**Subpart 5. Fees**

**Chapter 5. Fees**

**§501. General**

A. The board may collect the following fees:

Examination fee.....	\$225
Reciprocity fee.....	150
Re-Examination fee.....	200
Re-Instatement fee.....	75
Renewal of license fee.....	75
Verification of license fee out-of-state.....	10
Duplicate wall license fee.....	30
Duplicate billfold license fee.....	10

\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:2401.2A(3), Act 208 of 1987 and Act 708 of 1990.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:750 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:632 (May 1989), LR 17:667 (July 1991), LR 18: (September 1992).

Paul A. Lamothe, Jr. P.T.  
 Chairman

**RULE**

**Department of Health and Hospitals  
 Office of the Secretary  
 Bureau of Health Services Financing**

The Department of Health and Hospitals, Bureau of Health Services Financing, is adopting the following rule in the Title XIX (Medicaid) Program. The rule was adopted under the emergency rulemaking provisions of R.S. 49:953(B) effective February 11, 1991. The rule was published as a notice of intent in June 20, 1992 (Volume 18, No. 6, page 638).

**RULE**

Medicaid eligibility is extended to individuals who would be eligible for but are not receiving cash assistance as an Optional Categorically Eligible group. This eligibility group is described as persons who have been determined to meet all the eligibility criteria for cash assistance under AFDC or SSI, but are not receiving these benefits.

J. Christopher Pilley  
 Secretary

**RULE**

**Department of Health and Hospitals  
 Office of the Secretary  
 Bureau of Health Services Financing**

The Department of Health and Hospitals, Bureau of Health Services Financing, is adopting the following rule in the Title XIX (Medicaid) Program. The rule was adopted by emergency rulemaking published in the June 20, 1992 *Louisiana Register* (Volume 18, No. 6, page 573). The rule was published as a notice of intent on June 20, 1992 (Volume 18, No. 6, page 640).

**RULE**

Non-emergency medical transportation services under Title XIX Freedom of Choice Waiver contracted services provisions shall be made available only in the New Orleans Region comprised of Orleans, St. Bernard, Jefferson, Plaquemines, and St. Charles parishes.

J. Christopher Pilley  
 Secretary

**RULE**

**Department of Health and Hospitals  
 Office of the Secretary  
 Bureau of Health Services Financing**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, is adopting the following rule in the Medical Assistance Program. The rule was published as an emergency rule in the *Louisiana Register* on September 20, 1990 (Vol. 16, No. 9), June 20, 1991 (Vol. 17, No. 6), January 20, 1991 (Vol. 17, No. 1), October 20, 1991 (Vol. 17, No. 10), January 20, 1992 (Vol. 18, No. 1) and as a notice of intent on June 20, 1992 (Vol. 18, No. 6).

**RULE**

Anesthesiology services shall be reimbursed in accordance with the guidelines set forth herein when provided to eligible Title XIX recipients. With some exceptions, anesthesia services will be reimbursed by the formula in I., which considers Base Units and Time Units and a multiplier Coefficient along with Modifiers which identify the involvement of the anesthesia services provider. The exceptions to the formula to determine reimbursement are certain CPT-4 procedure codes identified in IV., which will continue to be reimbursed on a flat fee basis. In addition, maternity-related anesthesia services will be reimbursed on a flat fee basis in accordance with the provisions set forth in V.

"Personal Medical Direction" as used in this rule is defined in the same manner as "personal medical direction" in the Medicare billing guidelines.

**I. Formula Determining Payment for Anesthesia Services**

Reimbursement to anesthesiologists and certified registered nurse anesthetists will be calculated using the following formula: Base Units + Time Units x Coefficient = Payment. A Base Unit is the relative value assigned to a CPT-4 procedure code. A Time Unit equals the length of the anesthesia service in minutes divided by either 15 or 30. The Coefficient will be either \$8.49 or \$15.

If there are additional minutes remaining when time units are computed, then reimbursement will only be paid for five-minute intervals. When 1 unit = 15 minutes and the co-

efficient is \$15, reimbursement will be paid at the rate of \$5 for each additional five-minute interval. When 1 unit = 15 minutes and the coefficient is \$8.49, reimbursement will be paid at the rate of \$2.83 for each additional five-minute interval. When 1 unit = 30 minutes and the coefficient is \$15, reimbursement will be paid at the rate of \$2.50 for each additional five-minute interval. Remaining minutes less than five will not be reimbursed.

**II. Certified Registered Nurse Anesthetists (CRNAs) Payment Schedule**

Reimbursement to CRNAs will be paid at two levels differentiated by whether the CRNA is personally medically directed by an anesthesiologist or works independently of an anesthesiologist. The Coefficient will be \$8.49 for a medically directed CRNA (designated by modifier AH) and \$15 for a non-medically directed CRNA (designated by modifier AI). The payment will be calculated as follows:

Modifier AH Base Units + Time Units (1 = 15 minutes) × \$8.49 = Payment

Modifier AI Base Units + Time Units (1 = 15 minutes) × \$15 = Payment

No reimbursement will be paid to a surgeon for the personal medical direction of a CRNA. The anesthesia service will be considered non-medically directed and should be billed as such by the CRNA.

**III. Concurrent Medical Direction by the Anesthesiologist**

When an anesthesiologist and a CRNA are both involved in the performance of a *single* anesthesia service, the service will be considered as performed by the anesthesiologist. No separate payment will be made to the CRNA.

An anesthesiologist may bill for personal medical direction only when two or more anesthesia services are being concurrently performed. When the anesthesiologist is involved in directing two or more concurrent anesthesia procedures, the coefficient for the anesthesiologist is \$15 with a percentage reduction of the Base Units according to the number of CRNAs under his/her personal medical direction. Payment will be computed using the following modifiers and formula:

Modifier AA (Anesthesiologist working alone) Base Units + Time Units (1 = 15 minutes) × \$15 = Payment

Modifier AB (Direction of two CRNAs) Base Units - 10% + Time Units (1 = 30 minutes) × \$15 = Payment

Modifier AC (Direction of three CRNAs) Base Units - 25% + Time Units (1 = 30 minutes) × \$15 = Payment

Modifier AD (Direction of four CRNAs) Base Units - 40% + Time Units (1 = 30 minutes) × \$15 = Payment

**IV. CPT-4 Procedure Codes Reimbursed on Flat Fee Basis**

The following CPT-4 procedure codes will continue to be reimbursed on a flat fee basis. Current billing procedures apply.

36000	*36491	62279
*36010	36500	*62282
36405	36600	*62284
*36420	36620	*62289
*36425	*36625	*62290
36430	36640	*62291
*36440	62270	*62292
*36470	62273	
*36471	62274	
*36490	62278	

Under the State Nursing Practice Act, CRNAs do not have the authority to perform the procedures listed above which are marked with an asterisk.

**V. Reimbursement for Maternity Related Anesthesia**

Maternity-related anesthesia will be reimbursed on a flat fee basis at three levels differentiated by who personally administers the anesthesia — the anesthesiologist, the CRNA, or the surgeon/delivery physician. The only exception is general anesthesia for vaginal delivery which will continue to be reimbursed according to base units and time units. The flat fee will be paid in accordance with the CPT-4 procedure code and appropriate modifier for both vaginal and cesarean deliveries.

The surgeon or delivering physician will be reimbursed when he initiates the epidural procedure with inclusion of the appropriate procedure code modifier.

The anesthesiologist or CRNA who is called in to continue administering the anesthesia after the epidural was inserted will be reimbursed for the continued administration of the anesthesia modifier. Anesthesia and operative reports must substantiate the modifier utilized.

Anesthesiologists and/or CRNAs may not bill for both continued administration and general anesthesia.

J. Christopher Pilley  
Secretary

**RULE**

**Department of Health and Hospitals  
Office of the Secretary  
Bureau of Health Services Financing**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing is adopting the following rule in the Medical Assistance Program. The rule was published as a notice of intent in the *Louisiana Register* on June 20, 1992 (Vol. 18, No. 6).

**RULE**

A prospective interim rate of \$13.26 per unit of service for case management services shall be established subject to adjustment based upon audited cost report data. Based upon provider audit findings the prospective interim rate shall be adjusted to assure compliance with federal regulations. This increase applies only to enrolled providers currently reimbursed on a 15 minute service unit basis. The general provisions currently in effect continue to govern reimbursement for these services.

J. Christopher Pilley  
Secretary

**RULE**

**Department of Health and Hospitals  
Office of the Secretary  
Bureau of Health Services Financing**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, is adopting the following rule in the Medical Assistance Program. The rule was published as an emergency rule in the *Louisiana Register* dated January 20, 1992 (Vol. 18, No. 1) and as a notice of intent on June 20, 1992 (Vol. 18, No. 6).

**RULE**

Prescriptions shall be filled within six months of the date prescribed by a physician or other service practitioner covered under Medicaid of Louisiana. Schedule II narcotic analgesics shall be filled within five days of the date prescribed by a physician or other service practitioner covered under Medicaid of Louisiana. Transfer of a prescription from one pharmacy to another is allowed if less than six months have passed, since the date prescribed, and in accordance with the Louisiana Board of Pharmacy requirements.

J. Christopher Pilley  
Secretary

**RULE**

**Department of Health and Hospitals**

**Office of the Secretary**

**Bureau of Health Services Financing**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, is adopting the following rule in the Medical Assistance Program. The rule was published as an Emergency Rule in the *Louisiana Register* on November 20, 1991 (Vol. 17, No. 11) and as a Notice of Intent on June 20, 1992 (Vol. 18, No. 6).

**RULE**

Rates for Medicaid non-emergency ambulance transportation services are increased from \$2 per mile to \$2.11 per mile. Base rate and transfer fees are increased from \$77.50 to \$81.84.

All current vehicle requirements for ambulance transport shall remain in effect.

J. Christopher Pilley  
Secretary

**RULE**

**Department of Health and Hospitals**

**Office of the Secretary**

**Bureau of Health Services Financing**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, is adopting the following rule in the Medical Assistance Program. The rule was previously published as an emergency rule in the *Louisiana Register* on November 20, 1991 (Vol. 17, No. 11) and on March 20, 1992 (Vol. 18, No. 3) and as a notice of intent on June 20, 1992 (Vol. 18, No. 6).

**RULE**

All non-emergency, non-ambulance Medicaid providers of ambulatory transportation services are to receive an increase in their mileage rates from \$.50 per mile to \$.55 per mile. Van services will be reimbursed \$.60 per mile when provided in full size vans equipped with wheelchair lifts, stretcher carriers and two-way communication systems. Pick-up fees for non-ambulatory patients transported by full size vans equipped with wheelchair lifts, stretcher carriers and two-way communication systems are as follows: two-way pick-up will be \$20, and one-way pick-up will be \$10. Pick-up fees for second and subsequent non-ambulatory riders will be one half of these rates.

The current pick-up rates will remain the same for ambulatory transportation services. For a provider to receive reimbursement at the van rate, door to door service shall be provided. Door to door services shall include picking-up and delivering a patient to a specific department within a facility. All current vehicle requirements for vans remain in effect.

J. Christopher Pilley  
Secretary

**RULE**

**Department of Health and Hospitals**

**Office of the Secretary**

**Bureau of Health Services Financing**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, is adopting the following rule in the Medical Assistance Program. The rule was published as an emergency rule in the *Louisiana Register* (Vol. 17, No. 10), page 949, on October 20, 1991 and January 20, 1992 (Vol. 18, No. 1) and as a notice of intent on June 20, 1992 (Vol. 18, No. 6).

**RULE**

Nursing homes participating in Medicaid (Title XIX) shall be required to meet the following standards for payment for nursing home services in addition to the standards currently in effect:

1. the ratio of nursing care hours to residents shall be 2:35 on intermediate care level residents;
2. the ratio of nursing care hours to residents shall be 2:60 on skilled level residents;
3. nursing homes with a census of 101 or more shall have a full-time assistant director of nursing;
4. the assistant director of nursing shall be a registered nurse unless a written waiver has been approved by the department;
5. nursing homes shall have at least one Patient Activities Coordinator (PAC) per facility. An additional PAC per resident census in excess of 100 shall be required. All PAC employees shall be full time, or sufficient full-time equivalent employees shall be maintained to comply with these standards. Regardless of the number of PAC employees required, one full-time PAC shall be certified;
6. nursing homes shall employ one additional clerical employee.

J. Christopher Pilley  
Secretary

**RULE**

**Department of Social Services**

**Office of Community Services**

The Department of Social Services (DSS), Office of Community Services has adopted rules and regulations to implement a program for subsidizing the adoption of children with special needs. Louisiana's Adoption Subsidy Program is provided for in LA R.S. 46:1790-1792 and P.L. 96-272 (Title IV-E) of the U.S. Congress.

This rule reinstates and updates the previously repealed rule in respect to the Adoption Subsidy Program. The agency through error published a rule in the January, 1992 issue of the *Louisiana Register* repealing the initial rule that implemented the Adoption Subsidy Program.

#### OVERVIEW OF PROGRAM PURPOSE

The subsidized adoption program enables the DSS to make payments to adoptive parents on behalf of a child who otherwise might not be adopted because of special needs or circumstances. Subsidy payments shall be limited to a child(ren) for whom adoption is indicated but placement through existing resources is unavailable because of the child's physical or mental condition, race, age, membership in a sibling group which should not be separated, or other serious impediments or special needs. The adoption subsidy applies to a special needs child for whom DSS holds full and permanent custody prior to the adoptive placement or to a special needs child, SSI or AFDC eligible, for whom a private non-profit agency holds custody and to nonrecurring adoption expenses only for special needs children who are adopted independently. The adoption laws of the State of Louisiana shall be adhered to and the granting of a subsidy shall not affect the legal status of the child nor the rights and responsibilities of the adoptive parents.

The prospective adoptive family must meet basic adoption eligibility requirements in all respects except for the ability to assume complete financial responsibility for the child's care.

#### TYPES OF SUBSIDY

The child may be subsidized for the following services up to age eighteen:

1. Maintenance. The maintenance subsidy includes basic living expenses such as board, room, clothing, spending money, and ordinary medical and dental costs. The maintenance supplement may be ongoing, but must be renewed on a yearly basis. The amount of payment shall not exceed 80 percent of the state's regular foster care board rate based on the monthly flat rate payments for the corresponding age group. Changes in the maintenance subsidy rate care may occur once a year and the adjustment is made at the time of a change in the child's age group. The monthly maintenance shall not be based on specialized foster care arrangements such as Subsidized Foster Care, Alternate Family Care, or Therapeutic Foster Care.

2. Special Board Rate. Foster parents adopting a foster child for whom a special board rate was received may request up to a maximum of 80 percent of the special board rate amount of \$300. This includes adoptive parents who were not previously certified as the child's foster parent(s), if the care and needs of the child in the adoptive home warrant this same special board rate. Therefore, under the Adoption Subsidy Program, the special board component for these types homes shall not exceed \$240. The continued need for the special board rate shall be reviewed at the time of the annual review.

For the child placed in a Subsidized Foster Home, Alternate Family Care facility, or a Therapeutic Family Care facility, the maximum amount of the Special Board component of the Adoption Subsidy shall not exceed \$258. This amount equals the Family Support Case Subsidy (administered by the Division of Mental Retardation and the Developmental Disabilities) authorized for the care of special needs children who are in their own homes.

3. Special Services. The special services subsidy is time limited and in some cases may be a one time payment. It is the special assistance given to handle an anticipated expense when no other family or community resources is available. If needed, it can be offered in addition to the maintenance subsidy. Special services subsidies include the following type needs:

A. special medical costs for the child in connection with any physical or mental condition which existed prior to the date of the initial judgement of adoption;

B. dental, psychiatric, or psychological expenses, special equipment, prosthetic devices, or speech therapy;

C. other services determined to be medically necessary for the care, training and education of the child; and

D. legal and court costs or adoption under special circumstances.

Assessment must be made of the adopting family's medical insurance and of other public and voluntary community services to determine whether the costs of treatment and related costs can be covered in part or in whole by insurance and by other community services.

Reimbursement for special services will be limited to the usual and customary fee in the community where such services are rendered.

#### EXPLORATION OF ADOPTIVE RESOURCES

Before a child is certified by the Office of Community Services as eligible for a subsidy, resources for adoptive placement without such benefits must be explored by the adoption worker. This will include recruitment of adoptive parents, registrations for a reasonable period on state, regional, and/or national adoption resources exchanges, and referral to appropriate specialized adoption agencies.

Whenever an eligible child has been available for adoption for at least six months and every reasonable effort has been made to place the child for adoption with Louisiana residents, adoptive parents from other states shall be eligible for a subsidy under the same conditions as Louisiana residents, except where the other state has a subsidized adoption program that is available to such non-resident parents.

#### ELIGIBILITY CRITERIA

1. Non IV-E Placements. The income scale determining eligibility for the non IV-E maintenance subsidy shall be utilized by the DSS, Office of Community Services to determine eligibility for non IV-E benefits. The scale is based on 115 percent of Louisiana's median income for a family of four, adjusted for family size as published by the U.S. Department of Health and Human Services. Figures in the column on the left refer to the number of family members, including the adoptive child(ren). Figures in the column on the right refer to family gross income. Persons living in the household who are not dependent on the adoptive family's income, even though related, are not counted. Families whose income falls below the figures in the right column may apply for subsidy.

The Office of Community Services, Adoption Subsidy Program, will determine the appropriateness of subsidy benefits, the type of subsidy, and the level of the subsidy. An agreement form between the Office of Community Services and the prospective adoptive parents with clearly delineated terms must be signed prior to the granting of the final decree.

**Income Chart**

**FAMILY SIZE**

**GROSS ANNUAL INCOME**

1 person	\$15,399.00
2 persons	20,137.00
3 persons	24,875.00
4 persons	29,614.00
5 persons	34,352.00
6 persons	39,090.00
7 persons	39,978.00
8 persons	40,867.00
9 persons	42,052.00
10 persons	42,940.00
11 persons	43,829.00
12 persons	44,717.00
13 persons	45,606.00
14 persons	46,493.00

For each additional family member above 14 persons, add \$888 to the gross annual income.

2. IV-E Placements. Federal regulations prohibit the use of an income eligibility requirement (means test) for prospective adoptive parents in determining the availability of payments or other types of adoption assistance. The otherwise eligible child who has met the "special needs" requirements in section 473 (c) of the Social Security Act will be eligible for payments and other types of services and assistance under the Title IV-E Adoption Assistance Program. Parents with whom such a child is placed for adoption are eligible to receive Title IV-E payments and other assistance on behalf of that child, under an agreement with the state agency.

**EFFECTS OF DEATHS OF ADOPTIVE PARENTS ON ADOPTION SUBSIDY**

Where an adoption subsidy agreement is in effect and the adoptive parents die prior to the adopted child reaching the age of majority, the duly designated tutor or guardian of the child may continue to receive subsidy payments on behalf of the child provided that the tutor or guardian is capable of providing a permanent home for the child in all respects other than financial, and the child's needs are beyond the resources of the tutor or guardian. In these situations, the child who was Title IV-E eligible prior to the death of the adoptive parent(s) shall cease being eligible for these federal benefits. The child's medicaid certification as a Title IV-E adoption subsidy child shall be closed and re-opened as a non IV-E adoption subsidy child. The tutor or guardian should be encouraged to apply for survivors benefits for the child and/or AFDC.

It is extremely important to note that if the child is Title IV-E eligible, section 473 (a)(i) of the Social Security Act (the Act) prohibits the transfer of this benefit to the guardian. The Act makes no provision for payments to be made to the child or others, such as a tutor/guardian. Therefore, in these situations, the payments made by the Adoption Subsidy Program are funded with all state dollars.

Gloria Bryant-Banks  
Secretary

**RULE**

**Department of Social Services  
Office of Family Support**

**Project Independence**

The Department of Social Services, Office of Family Support, has amended LAC 67:III.2901.

This rule is mandated by federal regulations as published in the *Federal Register* of Friday, October 13, 1989, Vol. 54, No. 197, pages 42146-42267, and the Louisiana Welfare Reform Act, which require the implementation of the JOBS program for recipients of Aid to Families with Dependent Children (AFDC). Project Independence is administered in accordance with the above-referenced regulations and law, and the Louisiana State Plan for JOBS.

**Title 67**

**DEPARTMENT OF SOCIAL SERVICES**

**Part III. Office of Family Support**

**Subpart 5. Job Opportunities and Basic Skills  
Training Program**

**Chapter 29. Organization**

**Subchapter A. Designation and Authority of State Agency  
§2901. Implementation**

\* \* \*

**A.2. Participation Requirements**

\* \* \*

**c. Final October 1992 Implementation Parishes**

i. Complete implementation of Project Independence is being expanded to include the following parishes: Ascension, Lafourche, Livingston, St. John, St. Landry, St. Martin, St. Tammany, and Tangipahoa. The program will be administered in these additional parishes in the same manner as in the 20 parishes where it is currently operational.

ii. Minimal implementation of Project Independence is being done in the following parishes: Acadia, Allen, Assumption, Avoyelles, Beauregard, Bienville, Caldwell, Cameron, Catahoula, Claiborne, DeSoto, Evangeline, East Carroll, East Feliciana, Iberville, Jackson, Jefferson Davis, LaSalle, Madison, Morehouse, Natchitoches, Plaquemines, Red River, Richland, Sabine, St. Helena, St. James, St. Mary, Tensas, Union, Vermilion, Washington, Webster, West Carroll, West Feliciana, and Winn. A minimal program will include high school or equivalent education, either OJT or Job Search, and information and referral to Employment Services.

**d. Individual Participation Requirements**

\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with F.R. 54:42146 et seq., 45 CFR 250.11, 45 CFR 250.30, 45 CFR 250.33, and R.S. 460.3(A)(3).

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Office of Family Support LR 16:626 (July 1990), amended LR 16:1064 (December 1990), LR 17:1227 (December 1991), LR 18: (September 1992).

Gloria Bryant-Banks  
Secretary

**RULE**

**Department of Social Services  
Rehabilitation Services  
Commission for the Deaf**

The Department of Social Services, Commission for the Deaf, mandated by the 1990 Regular Session, is authorized to certify sign language interpreters of the deaf and to maintain a registry of sign language interpreters.

Because of the nature of the state mandate, the demands for certified sign language interpreters in all legal settings, mental health areas, and social services areas, as well as the availability of state funds for evaluation and certification for interpreters, the Commission for the Deaf sees an imminent peril to public health, safety, or welfare requiring adoption of a rule upon shorter notice than the normal process. As a result, the emergency rulemaking process is applicable at this time.

The Commission for the Deaf is revising the certification standards for sign language interpreters as published in the *Louisiana Register* in April, 1991.

**RULE**

**State Sign Language Interpreter Certification Standards  
Certification Statement**

All individuals who use the title "Sign Language Interpreter" must be certified by and registered with the Louisiana Commission for the Deaf.

Implementation of the generalists certification process is projected to be as follows:

Grandfathering	July 1, 1991 through December 31, 1991
Screening	January 1, 1992
Written Examination	April 1, 1992
Situational Ethics	April 1, 1992
Performance Examination	
Transliterating	July 1, 1992
Interpreting	July 1, 1992

Situational specialties will require the appropriate subcommittees of the Interpreter Certification Board to review/revises the Louisiana Registry of Interpreters to reflect recommended certification levels.

Legal	August 31, 1991
Medical	October 31, 1991
Mental Health	December 31, 1991
Occupational	February 28, 1992
Educational (Postsecondary)	April 30, 1992
Governmental Services	June 30, 1992
Community Services	August 31, 1992
Tactile/Graphic	October 31, 1992
Relay	December 31, 1992
Cultural Arts	April 30, 1993
Educational (Preschool/Elementary)	July 1, 1993*
Educational (Secondary)	July 1, 1993*
Cued Speech	July 1, 1993*

Religious - no testing will be scheduled, as this is considered to be a function of individual religious bodies.

\*or until such time as the appropriate criteria for certification of educational interpreters, including Cued Speech Interpreters, developed by an Educational Interpreter Sub-

committee of the Interpreter Certification Board are in place.

**EXAMINATION**

The Louisiana State Certification Program includes the following examination components:

**Qualifications for Examination:**

All individuals who desire to be examined for possible certification must:

1. be at least 18 years of age; and
2. possess a high school diploma/GED; and
3. submit completed application forms and required documentation; and
4. pass appropriate examination/s; and
5. abide by state laws, rules, and regulations; and
6. abide by the Registry of Interpreters for the Deaf, Inc. (RID) Code of Ethics.

**Application:**

An individual interested in examination must contact the Louisiana Commission for the Deaf (LCD). An application packet will be sent. Upon receipt of the completed application, LCD will notify the Chair of the Interpreter Certification Board to arrange for screening.

**Screening:**

To begin the certification process, the candidate must demonstrate sufficient communication skills in Sign Language, as demonstrated through the Sign Language Proficiency Interview, and determined as follows:

Level I	Intermediate
Level II	Advanced
Level III	Superior
Level IV	Superior
Level V	Superior

**Written Examination:**

Upon successful completion of screening, the candidate will be eligible for the written examination.

The written examination is designed to assess the candidate's knowledge of the general field of deafness, including deaf culture and the profession of interpreting, both general across languages and specific to sign language.

Successful completion of the written examination will permit continuation of the process through the situational ethics examination.

**Situational Ethics Examination:**

Upon successful completion of the written examination, the candidate will be eligible for the situational ethics examination.

The candidate will be examined on application of the RID Code of Ethics, professional attitudes toward deafness and interpreting, and the ability to react to conflict situations.

Successful completion of the situational ethics examination will permit continuation of the process through the performance examination/s.

**Interpreting Performance Examination:**

Upon successful completion of the situational ethics examination, the candidate will be eligible for the interpreting performance examination.

The candidate's ability to render American Sign Language into spoken English and spoken English into American Sign Language will be examined. Factors involved include clarity of signs, fingerspelling and voice, appropriateness of English structure and register, inflection of signs and voice to depict affect, and conceptual accuracy.

#### Transliterating Performance Examination:

Upon successful completion of the situational ethics examination, the candidate will be eligible for the transliterating performance examination.

The candidate's ability to render Sign English into spoken English and spoken English into Sign English will be examined. Factors considered are clarity of signs, finger-spelling and voice, appropriateness of English Structure and register, inflection of signs and voice to depict affect, and conceptual accuracy.

#### Examination Dates:

Examinations will be administered a minimum of twice annually.

#### No Shows:

Failure to appear at an examination site at the appropriate time, for other than just cause, will result in being placed at the bottom of the waiting list for the next available date.

#### Notification of Results:

The candidate will be notified of individual results. Results of any part of the examination will be maintained in confidential files, however, successful completion will be a matter of public record.

#### Re-Application:

Persons who do not successfully pass a section of the examination may re-apply after a waiting period of at least six months.

#### Duration of Certificates:

Certificates shall be continuous as long as the individual interpreter meets annual renewal requirements.

#### Level I (Internship)

Minimum Criteria. The applicant must:

1. possess an Intermediate Sign Language Proficiency Interview rating in American Sign Language or Sign Language or Sign English; and
2. successfully complete the written examination; and
3. successfully complete the situational ethics examination; and
4. submit a letter of internship from a certified interpreter.

#### Level II

Minimum Criteria. The applicant must:

1. possess an Advanced Sign Language Proficiency Interview Rating; and
2. successfully complete the written examination; and
3. successfully complete the situational ethics examination; and
4. successfully complete a performance examination; and
5. submit three letters of reference.

#### Level III

Minimum Criteria. The applicant must:

1. possess a Superior Sign Language Proficiency Rating; and
2. successfully complete the written examination; and
3. successfully complete the situational ethics examination; and
4. successfully complete a performance examination; and
5. submit three letters of reference.

#### Level IV

Minimum Criteria. The applicant must:

1. possess a Superior Sign Language Proficiency Interview Rating; and
2. successfully complete the written examination; and
3. successfully complete the situational ethics examination; and
4. successfully complete the interpreting performance examination; or  
successfully complete the transliterating performance examination.

#### Level V

Minimum Criteria. The applicant must:

1. possess a Superior Sign Language Proficiency Interview Rating; and
2. successfully complete the written examination; and
3. successfully complete the situational ethics examination; and
4. successfully complete the interpreting performance examination; and  
successfully complete the transliterating performance examination.

#### RENEWAL

Requirements: To maintain certification, the interpreter will, on an annual basis:

1. file a renewal form; and
2. provide documentation demonstrating proof of professional involvement, professional growth, and field work.

The certificate year is July 1 through June 30.

Should a certificate expire, the interpreter must re-submit an application and fees, and successfully complete the State Certification Program.

Grandfather Clause: For the period of July 1, 1991 through December 31, 1991, applicants will be awarded a certificate according to the following:

Level I - Individuals with one through three Louisiana Registry of Interpreters for the Deaf Situational Specialties, or a Louisiana Commission for the Deaf Interim Certificate E.

Level II - Individuals with four through eight Louisiana Registry of Interpreter for the Deaf Situational Specialties, or a Louisiana Commission for the Deaf Interim Certificate D.

Level III - Individuals with nine or more Louisiana Registry of Interpreters for the Deaf Situational Specialties, or a Louisiana Commission for the Deaf Interim Certificate C.

Level IV - Individuals with Louisiana Commission for the Deaf Interim Certificate B, or current or past Registry of Interpreters for the Deaf certification of:

Expressive Interpreting Certificate (EIC), or  
Expressive Translating Certificate (ETC), or  
Interpreting Certificate (IC), or  
Transliterating Certificate (TC), or  
Certificate of Interpreting (CI), or  
Certificate of Transliterating (CT).

Level V - Individuals with Louisiana Commission for the Deaf Certificate A, or current or past Registry of Interpreters for the Deaf certification of:

Specialist Certificate: Legal (SC:L, formerly LSC), or  
Specialist Certificate: Performing Arts (SC:PA), or  
Master Comprehensive Skills Certificate (MCSC), or  
Comprehensive Skills Certificate (CSC), or  
Reverse Skills Certification (RSC), or  
Certification of Interpretation (CI), and

Certificate of Transliteration (CT), formerly EIC and ETC, and IC and TC, respectively.

Applicants must submit:

1. application form; and
2. appropriate fee; and
3. Louisiana Registry of Interpreters for the Deaf credentials or

4. Registry of Interpreters for the deaf Certificate/s; and

5. resume indicating:
  - a. education;
  - b. field experience;
  - c. professional involvement; and three references.

Reciprocity.

Reciprocity with other interpreting certificates will be determined on an individual basis, as presented to the Interpreters Certification Board and approved by the Louisiana Commission for the Deaf.

A temporary certificate may be issued by the Chair of the ICB pending resolution of individual reciprocity issues.

Applicants for temporary certificates must submit:

1. application form; and
2. appropriate fee; and
3. resume indicating:

- a. education;
- b. field experience;
- c. professional involvement; and three references.

Grievance.

Any individual who disagrees with the action of the Interpreter Certification Board, or the results of any examination, will be permitted the right of appeal/grievance as outlined in Louisiana Commission for the Deaf policy.

#### Certification Authority

The Louisiana Commission for the Deaf is authorized by R.S. 46:2352(7) of the 1990 Louisiana Legislative Session to certify interpreters for persons who are deaf. Louisiana Commission for the Deaf, Box 94371, Baton Rouge, LA 70804-9371, (504) 342-2850 (V/T), 1-800-256-1523 (V/T).

Gloria Bryant-Banks  
Secretary

## RULE

### Department of Social Services Office of the Secretary

The Department of Social Services, Office of the Secretary, Bureau of Licensing, hereby amends the Louisiana Administrative Code, Title 48, Part 1, Subpart 3, Licensing.

This rule is mandated by R.S. 46:1401-1424.

#### Title 48

#### PUBLIC HEALTH-GENERAL

#### Part I. General Administration

#### Subpart 3. Licensing

#### Chapter 53. Day Care Centers

#### §5355. Purpose

A. 1. The Louisiana Committee on Private Child Care shall meet to develop minimum standards for licensure of Class B facilities and consult with the department on matters pertaining to decisions to revoke or refuse to grant Class B license. The licensing authority of this committee is estab-

lished by Chapter 14 of Title 46 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 46:1401 through 1424, relative to the licensing and regulations of child care facilities and child placing agencies.

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#### B. Waivers

The secretary of the Department of Social Services, in specific instances, may waive compliance with a minimum standard if it is determined that the economic impact is sufficiently great to make compliance impractical, as long as the health and well-being of the staff and/or children is not imperiled. If it is determined that the facility or agency is meeting or exceeding the intent of a standard or regulation, the standard or regulation may be deemed to be met.

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AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18: (September 1992).

#### §5357. Relicensing

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B. The relicensing process is similar to the original application.

1. Renewal applications will be mailed to centers approximately 60 days prior to the expiration for execution. The application shall indicate any changes the center needs to make. (Example: hours of operation, ages of children.)

2. Relicensing surveys will be made by the Department of Social Services, Licensing, Office of the State Fire Marshal, the Office of Public Health, and others as City Fire Marshal, Zoning (if applicable). Approvals of each must be received by the Department of Social Services, Licensing before a new license will be issued. The director will review with the surveyors the findings and will be furnished a copy for any necessary action. It is the responsibility of the center owner/director to obtain the approvals before the current license's expiration date.

3. The Department of Social Services and the Office of State Fire Marshal must approved proposed structural changes, ratio adjustments, and variance of space used before changes are made which may affect the center's license.

4. If a survey reveals that a center is not substantially meeting minimum requirements, a recommendation will be made that a new license not be issued.

#### C. Appeal Procedure

1. the department shall have the power to deny, revoke or refuse to renew a license for a child care facility or child placing agency if an applicant has failed to comply with the provisions of this chapter or any applicable published rule or regulation of the department related to child care facilities and child placing agencies. If a license is denied, revoked, or withdrawn, the action shall be effective when made and the department shall notify the applicant of such action in writing immediately and of the reason for the denial, revocation, or withdrawal of the license. The department shall take such action with the advise and consent of the Child Care Committee, in the case of Class A facilities, and of the Private Child Care Committee, in the case of Class B facilities.

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AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18: (September 1992).

**§5359. Definitions**

A. 1. *Owner* — the individual or organization that owns the center, but who may employ a person to be full-time director responsible for the operation of the center or who may retain the responsibility as director.

2. *Director* — an individual employed by the owner of the center or by a board of a church or other organization to be responsible for the operation of the day care center.

3. *Child Care Staff* — an individual directly involved in the care and supervision of the children in the center.

4. *Substitute Employee* — an individual hired to take the place of any staff member.

5. *Temporary Employee* — an individual who, on an occasional basis, works under the supervision of a regular staff member.

6. *Voluntary Worker* — an individual who volunteers services or supplements the regular staff, on occasional basis.

7. *Department* — the Louisiana Department of Social Services.

8. *The Louisiana Advisory Committee on Child Care Facilities and Child Placing Agencies* — the committee that will review and revise licensing standards for Class A licensed centers.

9. *The Louisiana Committee on Private Child Care* — writes and oversees the implementation of the Class B standards.

10. *Child Information Form* — an information form that gives identifying and pertinent information on each child.

11. *Class A License* — issued to centers that meet Class A minimum standards.

12. *Class B License* — issued to centers that meet Class B minimum standards.

13. *Child's Physician Report Form* — gives medical and immunization information on each child.

14. *Personnel Health Record* — gives medical information of employees indicating a current check of communicable disease.

15. *Medication Permission Slip* — gives the day care center parents' permission (and dosage instructions regarding administering medication to their child).

16. *Transportation Authorization Slip* — authorized certain parents and other parties to pick up children from day care center on a regular basis.

17. *Temporary Transportation Authorization Form* — gives parents' permission for parties other than those already on record at center to pick up their child on temporary basis.

18. *Discipline Form* — form to be distributed to each parent and outlines the discipline (corporal or noncorporal punishments plan to be administered by the center).

19. *Employee Application Form* — form for day care center employees providing the name, age, address, telephone number, education background regarding felony record and psychiatric disorder, if any.

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AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18: (September 1992).

**§5361. Required Records**

A. Personnel Records

1. There shall be an employment application for each regularly employed and substitute member of the staff. This application shall include the actual date of hire, all pertinent personal information, past work experience, educational background, and personal references.

2. Complete I-9 form (U. S. Immigration and Naturalization Service Employment Eligibility form, required after November, 1986).

3. Documentation of criminal records check and fingerprinting application as required by R.S. 15:587.1 after September, 1986.

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B. Children's Records

1. b. All medical information required by the Office of Public Health (showing health inoculation records). See Child's Physician Report Form.

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C. Center Records

1. Current written report from the Office of Fire Marshal

2. Current written report from the Office of Public Health

3. Occupational license (when applicable)

4. Certificate of Occupancy (Zoning requirement)

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AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18: (September 1992).

**§5363. Personnel**

A. Qualifications

1. Director

c. ii. A Child Development Associate Credential which includes practicum and one year experience in a licensed center.

\*\*\*

d. Licenses issued after June 20, 1990 must meet one of the requirements i-v. All directors employed prior to June 20, 1990 will be exempt from meeting director qualifications. These directors, however, are encouraged to work toward one of these requirements.

\*\*\*

3. All Center Staff

a. All center staff include the director, teachers, child care staff, and any other employees of the center such as the cook, housekeeper, chauffeur.

b. i. All center staff shall be required to obtain within two weeks before beginning work and at least every three years thereafter a written statement from a physician certifying that individual is in good health and is physically able to care for children and is free from infectious and contagious diseases.

\*\*\*

e. Substitute or temporary employees shall meet the same medical requirements as regularly employed personnel. Refer to substitute and temporary employees as defined.

\*\*\*

C. 4. If day and night care are offered, there must be separate staff.

\*\*\*

D. 1. a. Provisions for a one-day orientation to center policies and practices, health and safety, and emergency and evacuation procedures followed by four days of supervised working with children.

\*\*\*

4. CPR training for infant and child is required of one-half the current staff on premises, in direct supervision of the children at all times.

a. Documentation will be a copy of the certification card on file at the center.

b. This training may satisfy the requirement for those staff quarterly training session. (See §5363.D.2).

c. Certification will qualify for four "clock hours" training credit toward a new director's requirements. (See §5363.a.1.c.iv).

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AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18: (September 1992).

**§5365. Plant and Equipment**

**A. Indoor/Outdoor Space Required**

1. There shall be outdoor space adjoining the center which provides a minimum of 75 square feet for each child in the group. The minimum outdoor play space shall be available for at least one-half of the number of children in care.

\*\*\*

3. A soft surface shall be provided under climbing apparatus with potential fall of four feet or more to the ground. Soft surface samples are grass, pea gravel, loosely-packed soil, sand, wood chips, sawdust, or mats.

a. Climbing apparatus installed prior to the date of these regulations must come into compliance within 90 days of the regulations.

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B. 2. Play equipment of sufficient quantity and variety for indoor and outdoor use, shall be provided which is appropriate to the needs of the children.

\*\*\*

**D. Fire Safety**

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2. Fire drills shall be conducted at least every 30 days.

a. These shall be conducted at various times of the day and shall be documented as follows:

- i. date and time of day;
- ii. number of children and staff present;
- iii. lapse time of drill.

3. All personnel are to be trained in emergency and evacuation procedures.

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**E. Safety Regulations**

1. Drugs, poisons, harmful chemicals, equipment and

tools shall be locked away from children.

a. Whether a cabinet or an entire room, the storage area must be locked.

\*\*\*

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18: (September 1992).

**§5367. Admission of Children**

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B. Parents or guardians must be provided with a written description of the centers

1. Program, policies, fee (if any), annual and daily schedule.

C. Discrimination by child day care centers on the basis of race, color, creed, sex, national origin, handicapping condition or ancestry is prohibited.

1. A policy shall include this written statement.

D. DELETE

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AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18: (September 1992).

**§5369. Care of Children**

**A. Nutrition**

1. Well-balanced and nourishing meals and snacks shall be made available to children in care for more than four hours using the four basic food groups (breads, fruits and vegetables, dairy products, protein products) but, not requiring all components of the food groups be served at one meal or snack.

a. Milk shall be offered to the children at least once a day.

\*\*\*

4. a. iv. Parents should be encouraged to prepare meals which are well-balanced and nutritious but, with the understanding that what the parent provides is acceptable.

\*\*\*

5. Infants to be fed and supervised individually.

a. Infants shall be held while feeding.

b. A bottle shall not be propped at any time.

c. Parents should supply center with a schedule of feedings for each infant.

6. Drinking water shall be readily available to the children in single service cups or cups that can be sanitized.

a. Drinking fountains are permissible.

b. Infants and toddlers should be offered water at intervals.

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**B. Health Service to the Child**

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3. b. A physician's written certification that the child is free from contagious disease should be required before a child can return to center.

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7. An incident/accident report should be maintained detailing accident of a child and the action taken by the facility/director.

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C. Daily Program

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5. While awake, infants up to the age of one year, shall not remain in a crib, a baby bed, or a playpen for more than 30 minutes continuous.

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**AUTHORITY NOTE:** Promulgated in accordance with R.S. 46:1401-1424.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18: (September 1992).

**§5373. Discipline**

Each center shall establish a written policy in regard to methods of discipline stating what actions will and will not occur.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 46:1401-1424.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18: (September 1992).

**§5375. Abuse and Neglect**

A. 1. This statement shall be included in your written discipline policy.

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**AUTHORITY NOTE:** Promulgated in accordance with R.S. 46:1401-1424.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18: (September 1992).

**§5377. Supervision**

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A. 3. At naptime, children may be grouped together with one worker supervising the children sleeping while others workers rotate various duties and lunch time. All children sleeping must be in the sight of the naptime worker. However, appropriate staffing must be present within the center to satisfy child/staff ratios.

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**AUTHORITY NOTE:** Promulgated in accordance with R.S. 46:1401-1424.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18: (September 1992).

Gloria Bryant-Banks  
Secretary

**RULE**

**Department of Transportation and Development**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Department of Transportation and Development adopts the following rule entitled Recycling of Highway Construction and Maintenance Materials, in accordance with the provisions of R.S. 30:2415.

**Title 70**

**DEPARTMENT OF TRANSPORTATION  
AND DEVELOPMENT**

**Part III. Office of Highways**

**Chapter 9. Recycling of Highway Construction and Maintenance Material**

**§901. Purpose**

In compliance with the provisions of R.S. 30:2415, the Louisiana Department of Transportation and Development hereby specifies its policy for maximizing the recycling of highway construction and maintenance materials. The department currently purchases all items, except road and bridge materials which are the subject of this rule, through the Office of State Purchasing. Therefore, all items purchased, other than road and bridge materials, are subject to any and all rules on the subject of recycling which have been promulgated by the Office of State Purchasing.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2415.

**HISTORICAL NOTE:** Promulgated by the Department of Transportation and Development, LR 18: (September 1992).

**§903. Tracking**

It shall be the responsibility of the Construction and Maintenance Engineer or his designee to compile an annual report showing the number or amount of materials recycled each year.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2415.

**HISTORICAL NOTE:** Promulgated by the Department of Transportation and Development, LR 18: (September 1992).

**§905. Construction Materials**

**A. Methods of Recycling**

1. Salvage pipe culverts to relay on same project or deliver to maintenance unit for reuse.
2. Salvage treated timber and deliver to maintenance unit for reuse.
3. Salvage steel beams and deliver to maintenance unit for reuse.
4. Reclaim asphalt pavement to use in new mix, blend into base course, use as aggregate surface course on shoulders and ramps or deliver to maintenance unit for reuse.
5. Salvage concrete pavement to use in asphaltic concrete or as riprap.
6. Salvage guardrail and deliver to maintenance unit for reuse.
7. Experiment with use of shredded tires in asphalt concrete.
8. Recycle portland cement/concrete for hot mix and for coarse aggregate in portland cement/concrete for base course and for shoulders. Crush the portland cement/concrete, remove steel to use as coarse aggregate.

9. Buy or specify in contracts recycled calcium sulfate as an alternate for base course, embankment and shoulder materials.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2415.

**HISTORICAL NOTE:** Promulgated by the Department of Transportation and Development, LR 18: (September 1992).

**§907. Maintenance Materials**

**A. Methods of Recycling**

1. Use materials salvaged from construction projects and delivered to maintenance units for reuse.
2. Salvage old signs and strip sheeting from aluminum to reuse to make signs.
3. Sell scrap aluminum, steel and copper wire to salvage companies for recycling.
4. Salvage signal parts to refurbish and use over again or sell to salvage companies.
5. Reclaim zylene from stripper cleaning operation.
6. Save used oil and antifreeze for reclaiming. Sell unusable waste oil to highest bidder who is also a disposer certified by Department of Environmental Quality.
7. Recap tires when feasible. Sell used tires to highest bidder who is also a disposer certified by Department of Environmental Quality.
8. Sell batteries to highest bidder who is also a disposer certified by Department of Environmental Quality.
9. Use recycled glass beads for pavement striping.
10. In connection with the disposal of unusable tires and batteries, the Department of Transportation and Development works with Division of Administration toward a plan under which these items are turned in to vendor upon purchase of new tires or batteries on a "one for one" basis.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2415.

**HISTORICAL NOTE:** Promulgated by the Department of Transportation and Development, LR 18: (September 1992).

Jude W. Patin  
Secretary

**RULE**

**Department of the Treasury  
Board of Trustees of the  
Louisiana State Employees' Retirement System**

The Board of Trustees of the Louisiana State Employees' Retirement System hereby gives notice in accordance with law that it has adopted the following rule for emergency refunds (R.S. 42:657(B)).

**RULE**

A refund of accumulated employee contributions may be made in less than 30 calendar days after the date of separation from state service in the following situations:

1. the refund results from the death of the member,
2. the member is totally and permanently disabled and is not entitled to disability retirement benefits, or
3. the member has expenses for medical care for an immediate family member.
4. unusual situations that are determined to be of an emergency nature by the executive director. The member

must provide a written request detailing the emergency situation and the executive director must provide written justification for his approval.

The member or beneficiary must provide a copy of the death certificate, a doctor's statement of total and permanent disability, or a copy of medical invoices to qualify for the emergency refund.

Upon receipt of the documentation, the retirement system will issue the refund at the next scheduled date for issuing refund checks. The refund amount will include all employee contributions received from the employing agency and posted to the individual's account. Any additional contributions received at a later date from the agency will be refunded to the individual after they are received and posted to the account.

If the amount that is refunded is greater than the amount actually due the individual, the individual is responsible for repaying the overpayment upon receiving notification from the retirement system.

Thomas D. Burbank, Jr.  
Executive Director

**RULE**

**Department of the Treasury  
Board of Trustees of the  
Louisiana State Employees' Retirement System**

The Board of Trustees of the Louisiana State Employees' Retirement System hereby gives notice in accordance with law that it has adopted the following rule concerning judicial retirement as mandated by Act 1063 of the 1991 Regular Session of the Louisiana Legislature.

Act 1063 of the 1991 Regular Session enacts special retirement provisions for certain judges whose judicial divisions were not precleared by the U.S. Justice Department, judges serving on a court restructured by federal court order, or judges serving on a court found to be in violation of the Voting Rights Act.

Any judge holding office on the effective date of this Act may retire at the end of his current term, regardless of age or years of service, provided that he does not seek reelection to the current office or seek election to another judicial office.

In order to be eligible for retirement under these provisions, the judge must make application on or before November 21, 1991. A judge who seeks reelection or election to another judicial office is not eligible to apply for retirement under this Act. The judicial administrator's office must certify that the office held by the judge is covered under the provisions of Act 1063. Once received in the office of LASERS, the retirement application is irrevocable.

Act 1063 establishes a special retirement benefit structure for certain judges. This benefit structure replaces the structure established in R.S. 42:575 and R.S. 13:15. The base benefit is defined as "that proportion of his annual judicial pay, as it exists on the date of his retirement, which his number of years served on a court of record bears to 25." Thus, the base benefit is equal to four percent of judicial pay instead of three and one-half percent of the average highest 36 months, and does not include a \$300 supplement. The judicial pay will be based on the base pay reported in the last monthly earnings report from the agency.

There is also a supplemental benefit for legislative, military, and prosecutorial service. The rules for recognizing, purchasing, or transferring such service are to be in accordance with the "otherwise applicable laws" of the system. Thus, prior state service with the attorney general, for example, where the contributions have been left with the system, would be credited at two and one-half percent. Service that is purchased on an actuarial basis, such as military service, will be credited at three and one-half percent. The formula for calculating the supplemental benefit for purchased service is three and one-half percent  $\times$  final average compensation  $\times$  number of years of purchased service. Existing service and transferred service will be calculated using the rate normally applicable to such service.

Purchases of service not normally authorized may be made only for purposes of establishing a benefit under this Act.

The total retirement benefit is limited to 100 percent of the judicial pay as it exists on the date of his retirement.

Purchases of service credit may be made by paying the actuarial cost under the provisions of R.S. 42:697.16. Military service is defined as regular full-time active duty or full-time active duty in the national guard or reserve forces, and does not include periods of annual training. The judge must provide the appropriate documentation for military service (Form DD214) or must provide certification from the political subdivision detailing the dates of service and whether the service was full-time or part-time. If the service was covered by another retirement system and the judge previously received a refund for the service, the refund may be repaid to the other retirement system in order to transfer the service to LASERS.

If he has service in another retirement system, the service may be transferred under the provisions of R.S. 42:697.1. Benefits based on transferred service will be calculated using the formula from the transferring system.

Reciprocal agreements with other retirement systems will be processed in accordance with the provisions of R.S. 42:697. The judge must qualify for retirement under the provisions of the reciprocating system in order to receive a benefit from that system.

Since this is not a regular retirement program, judges retiring under these provisions are not eligible for participation in the deferred retirement option plan.

#### RULE

Act 1063 of 1991 provides special retirement options for certain judges affected by federal court orders. It provides for an enhanced benefit structure, special purchase of service credit provisions, and waives age and years of service requirements.

This rule will establish the procedures for implementing the provisions of Act 1063.

Thomas D. Burbank, Jr.  
Executive Director

#### RULE

**Department of the Treasury  
Board of Trustees of the  
Louisiana State Employees' Retirement System**

The Board of Trustees of the Louisiana State Employ-

ees' System hereby gives notice in accordance with law that it has adopted the following rules for purchase of military service under R.S. 42:697.11.

#### RULE

R.S. 42:697.11 as amended by Act 205 of the 1991 Regular Legislative Session provides for the actuarial purchase of military service under certain conditions effective July 2, 1991.

A maximum of four years of credit for military service may be purchased by members who rendered military service prior to January 1, 1982 provided the member received a discharge other than dishonorable. The member must have at least 18 months of creditable service in LASERS in order to purchase the service.

A member who cannot receive credit for service in the state national guard or in the reserve forces under these provisions unless the service was for full time active duty.

In order to apply for purchase of the service, the member must:

1. make application to LASERS,
2. provide a copy of military form DD214,
3. certify that he/she is not drawing a regular retirement benefit based on the military service calculated on the basis of age and service (restriction does not apply to disability benefits based on 25 percent or less disability received as a result of military service),
4. certify that he/she has not received credit for the service in any other public retirement system, and
5. Pay \$75 for the cost of the actuarial calculation to determine the cost to purchase the service.

The member must pay the actuarial cost to receive the service credit. Upon receipt of the items listed above, LASERS will issue an invoice to the member. The invoice is void if not paid within 90 days after the date issued. Payment must be made in a lump sum.

Military service purchased cannot be used to establish eligibility for disability or survivor's benefits. Military service purchased will be used to establish eligibility for regular retirement provided the member has a minimum of 20 years of state service. The military service purchased will be used in the calculation of the retirement benefits but will not be used to establish the final average compensation.

The payment of the actuarial cost will be credited to the member's account as unsheltered employee contributions. If the member later separates from state employment and requests a refund of contributions, the amount paid will be refunded along with other employee contributions.

Thomas D. Burbank, Jr.  
Executive Director

#### RULE

**Department of the Treasury  
Board of Trustees of the  
Louisiana State Employees' Retirement System**

The Board of Trustees of the Louisiana State Employees' Retirement System hereby gives notice in accordance with law that it has adopted the following rules for implementation of Act 6 of the First Extraordinary Session of 1991 for Retirement System purposes.

## RULE

The Military Service Relief Act (R.S. 29:401-425) provides for a broad range of benefits for persons who are called to military service for the security of the nation. The provisions of the law are effective for military service rendered on and after August 3, 1990, which includes service in Operation Desert Shield/Storm.

The following rules apply to the provisions that affect benefits administered by the Louisiana State Employees' Retirement System (LASERS) for the service during Operation Desert Shield/Storm pursuant to Presidential Order.

### Requirements

In order to qualify for retirement credit for military service, at the time the individual was called to active military service, he or she must have been:

1. a state employee in a position that is other than temporary (including but not limited to probational and permanent Civil Service positions);
2. a member of the Louisiana State Employees' Retirement System;
3. a member of the Army National Guard of the United States, the Army Reserve, the Naval Reserve, the Marine Corps Reserve, the Air National Guard of the United States, Air Force Reserve, or the Coast Guard Reserve (hereinafter called reservist) called to active duty; and
4. must have been released from active duty after satisfactory completion of military duty in accordance with the provisions of 50 U.S.C. A. §459 (release must have been other than dishonorable).

In addition, the reservist must apply for reemployment within 90 days of release from military service or discharge from hospitalization incidental to the military service.

### Exclusions

Employees who were in temporary positions (such as, but not limited to, restricted appointments, job appointments, provisional appointments, and student workers) are not eligible for retirement credit. Elected officials and appointed officials in positions established by the constitution or laws of the state are eligible for retirement credit. Reservists who were participating in the Deferred Retirement Option Plan at the time of military service are not eligible to receive service credit.

### Limitations

Reservists may not receive more than a total of four years of military service credit in the retirement system for military service performed after August 3, 1990. Even if a reservist has prior credit for military service, he or she may receive credit for Operation Desert Shield/Storm.

### Credit for Eligibility and/or Benefit Purposes

Under the provisions of the Act, a reservist will receive credit for purposes of determining eligibility for retirement at no cost to the individual or agency. In order to receive credit for purposes of calculating the retirement benefit, contributions must be paid to the retirement system within four years of release from active military duty. If the employee was on paid leave during the period of active military service, the employee has received retirement credit for that service and no additional information must be furnished to the retirement system.

### Certification of Military Service

In order to receive retirement credit for eligibility and/or benefits purposes, the employee must provide:

1. discharge or release notice (Form DD214) and any

other pertinent documentation from the appropriate military entity which provides the inclusive dates of active service or discharge from hospitalization incidental to the military service,

2. documentation from the agency certifying that the reservist was employed in a position other than temporary on the date the active duty began, and

3. certification from the agency that the reservist applied for reemployment within 90 days of release from military service or discharge from hospitalization incidental to the military service.

### Differential Payments Made by the Agencies

Under the provisions of this Act, many reservists whose military active duty base pay was less than their state base pay will receive compensation from their agency in the amount of the difference between the base military pay and base state pay for the time of their eligible active duty. Retirement contributions should not be paid on this differential pay. The reservist must elect to pay contributions on the entire amount of state earnings that would have been received in order to receive retirement credit for benefit purposes.

### Payment of Contributions After Military Service is Completed (R.S. 29:414)

The reservist may receive credit by paying the amount of employee contributions that would have been paid if he or she had continued in state employment during the period of military service plus compounded interest at the actuarial valuation rate at the time the payment is made. (In 1991, the actuarial valuation rate is 8.25 percent). The employer must pay the employer contribution plus interest.

The amount of contributions is based upon the amount of earnings the employee would have received if still employed. This includes any increases in compensation the employee would have received if he/she had remained in employment during the period of military service. If the employee's compensation varies, such as for legislators, the average monthly earnings for the 12 months preceding the active military service should be used to determine the amount of contributions.

The employer must determine the amount of earnings that would have been earned and compute the employee and employer contributions that are due plus interest. The interest should be calculated from the date the contributions would have been made to the date the payment is made to LASERS. LASERS will provide interest tables to the agencies for the calculation of interest.

The employee must pay the employee contributions plus interest to the agency. The agency must remit the employee and employer contributions plus interest to LASERS within 30 days after the employee has paid his or her portion. The agency must provide a monthly breakdown of the earnings and contributions for each reservist and the certification documents to LASERS.

All payments must be made in lump sum within four years after the reservist returns to employment in order for the reservist to receive credit for benefit purposes.

### Death and Survivor Benefits

The period of military service will be counted as creditable service for determining eligibility for death and survivor benefits. The amount of survivor benefits payable will be calculated as provided for in R.S. 42:601-610.

The final average compensation used for the calculation will be based on the actual earnings of the member. In

order for the estimated earnings during the period of military service to be used in the determination of the final average compensation, the employee and employer contributions must be paid for the period of military service.

Thomas D. Burbank, Jr.  
Executive Director

**RULE**

**Department of the Treasury  
Board of Trustees of the  
Louisiana State Employees' Retirement System**

The Board of Trustees of the Louisiana State Employees' Retirement System hereby gives notice in accordance with law that it has adopted the following rule for purchases and transfers of service.

**RULE**

The purchase of service on an actuarial basis and the transfer of service from other public retirement systems into LASERS requires an actuarial calculation by the system actuary.

The cost of this calculation shall be paid by the member requesting the calculation. Payment must be made before the request for the calculation will be forwarded to the actuary.

Thomas D. Burbank, Jr.  
Executive Director

**RULE**

**Department of the Treasury  
Board of Trustees of the  
Louisiana State Employees' Retirement System**

The Board of Trustees of the Louisiana State Employees' Retirement System hereby gives notice in accordance with law that it has adopted the following rule for payments to certain handicapped or mentally retarded children.

**RULE**

R.S. 42:603 provides for payment of survivor benefits to totally physically handicapped or mentally retarded children of deceased members if the child is "dependent upon the surviving spouse or other legal guardian" and does not receive state assistance.

The statute does not address the situation where the otherwise qualified surviving child has neither a surviving parent or legal guardian. For example, the surviving spouse may die, and if no legal guardian is appointed for a major child, the child may be dependent upon the survivor benefits and not upon either a legal guardian or surviving spouse as stated in the statute.

In order to cover this area not addressed by the statute, it will be the policy of the Louisiana State Employees' Retirement System to pay survivor's benefits to otherwise qualified physically handicapped or mentally retarded children of deceased members who have neither a surviving parent or legal guardian if such child, or a person holding a power of attorney or other legal authority to act on behalf of such child, provides to the system adequate annual docu-

mentation demonstrating that benefit payments will be used exclusively for the support and care of the child.

Thomas D. Burbank, Jr.  
Executive Director

**RULE**

**Department of the Treasury  
Board of Trustees of the  
Louisiana State Employees' Retirement System**

The Board of Trustees of the Louisiana State Employees' Retirement System hereby gives notice in accordance with law that it has adopted the following rule for purchase of service by reinstated employees.

**RULE**

When an employee is reinstated to a position in state government by the Department of Civil Service or a court of law, the employee is entitled to receive retirement service credit for the period of time that is reinstated provided payment of employee and employer contributions plus interest is made to the retirement system.

In order to receive service credit, the employee must pay an amount equal to the current employee contributions based on the earned compensation for the period of time that was reinstated. The employing agency must pay the employer contributions which would have been due plus compound interest at the actuarial valuation rate for all contributions payable from the date the contribution was due until paid.

Any costs to the retirement system associated with these procedures shall be paid by the employing agency.

Thomas D. Burbank, Jr.  
Executive Director

**RULE**

**Department of the Treasury  
Board of Trustees of the  
Louisiana State Employees' Retirement System**

The Board of Trustees of the Louisiana State Employees' Retirement System hereby gives notice in accordance with law that it has adopted the following rule for credit for part-time service and service in multiple positions.

**RULE**

Members of the Louisiana State Employees' Retirement System will receive service credit (up to a maximum of one year of service per calendar year) for all service which is rendered for an employer agency as defined in R.S. 42:543(12), and which is "state service" as defined in R.S. 42:543(28).

All compensation for such service, which meets the criteria of R.S. 42:543, will be recognized by the system, and employer and employee contributions must be paid thereon.

Thomas D. Burbank, Jr.  
Executive Director

**RULE**

**Department of Wildlife and Fisheries  
Office of Fisheries**

The secretary of the Department of Wildlife and Fisheries does hereby amend the rule governing the prohibition on the taking and possession of paddlefish.

**Title 76  
WILDLIFE AND FISHERIES**

**Part VII. Fish and Other Aquatic Life**

**Chapter 1. Freshwater Sports and Commercial Fishing**

**§137. Paddlefish**

The prohibition on the taking and possession of paddlefish, *Polyodon spathula*, commonly called spoonbill catfish, or paddlefish body parts, including eggs (roe) is to continue indefinitely. This rule will take effect on November 1, 1992.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:317.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 15:868 (October 1989); amended by the Office of Fisheries, LR 18: (September 1992).

Joe L. Herring  
Secretary

# Notices of Intent

**NOTICE OF INTENT**

**Department of Agriculture and Forestry  
Livestock Sanitary Board**

**Dead Poultry Disposal**

Under the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Livestock Sanitary Board, in accordance with the authority granted under R.S. 3:2095 has amended the following rule governing the diseases of animals.

**Title 7  
AGRICULTURE AND ANIMALS  
Part XXI. Diseases of Animals**

**Chapter 117. Livestock Sanitary Board**

**Subchapter D. Poultry**

**§11771. Governing the Sanitary Disposal of Dead Poultry**

\* \* \*

**B. Approved Methods**

\* \* \*

1.a. Effective January 1, 1993, no disposal pits will be approved.

b. Disposal pits that are currently in use will be allowed to operate until January 1, 1995.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:615 (June 1985), amended LR 17:874 (September 1991), LR 18:

Interested persons may comment on the proposed policy changes and/or additions, in writing, until 4:30 pm., September 30, 1992, at the following address: Maxwell Lea, Jr., D.V.M., State Veterinarian, Department of Agriculture and Forestry, Livestock Sanitary Board, Box 1951, Baton Rouge, LA 70821.

Maxwell Lea, Jr.  
State Veterinarian

**Fiscal and Economic Impact Statement  
For Administrative Rules**

**Rule Title: Dead Poultry Disposal**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There would be no estimated costs or savings to local governmental units to implement the proposed rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There would be no estimated effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)  
The initial cost of disposal pits would be \$600 to \$1,000 compared to \$1,500 to \$6,000 for other methods. The contents of disposal pits leach into the ground water making them environmentally unsound. Incinerators and composters produce a by-product that can be used by the grower or sold.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT -(Summary)  
This rule change would have no effect on competition and employment.

Richard Allen  
Assistant Commissioner

John R. Rombach  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Culture, Recreation and Tourism  
Office of the State Library of Louisiana**

**Public Library Construction and Technological Enhancement**

In accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq., notice is hereby given



that the Office of the State Library of Louisiana intends to revise the following rules and regulations. The changes will have no economic impact on the budget of the state, nor are fees involved. The revisions and changes herein refer to rules published in:

**Title 25**  
**Cultural Resources**  
**Part VII. State Library of Louisiana**  
**Subpart 3. Library Development**

**Chapter 21. Public Library Construction**

**§2101. Administration**

The State Library of Louisiana administers the federal Library Services and Construction Act (Public Law 98-480) which provides under Title II, funds for public library construction. The purpose of the act is to assist parishes in providing public library facilities in areas without library facilities or with inadequate library facilities.

**AUTHORITY NOTE:** Adopted in accordance with R.S. 25:9, R.S. 25:14 and R.S. 25:15.

**HISTORICAL NOTE:** Filed by the State Library of Louisiana at the Office of the State Register, December 11, 1974, amended LR 18:

**§2103. Definition**

Public Library construction is defined as the construction of new public library buildings and the expansion, remodeling, alteration, and technological enhancement of existing buildings to be used as public libraries, and the initial equipment of any such buildings (but not books), including architect's fees and the cost of the acquisition of land.

**AUTHORITY NOTE:** Adopted in accordance with R.S. 25:9, R.S. 25:14 and R.S. 25:15.

**HISTORICAL NOTE:** Filed by the State Library of Louisiana at the Office of the State Register, December 11, 1974, amended LR 18:

**§2105. Rules Governing Administration of the Act**

For the administration of the act the following state rules are applicable:

A. The public library applying must be a part of a parish or regional library except where there is evidence of a cooperative arrangement between the municipal library and the parish library operating under the laws governing parish and municipal libraries (R.S.25:211) or the Local Services Act (R.S. 33:1324).

B. A written building program, the site, the preliminary drawings and specifications, and final plans and specifications for the building and equipment must be approved by the State Library of Louisiana.

C. The facility must meet standards as set forth in Standards for Public Libraries in Louisiana (1987).

D. The building must be open a minimum of 40 hours a week and all services must be available to all persons without discrimination.

E. A public library facility to be attached to another building or built as a part of a building must be treated as a separate unit in terms of service, space, and costs. All documents including contracts must clearly indicate the cost of the portion of the building to be used for public library services purposes only. The section of the building to be used for public library purposes must have a direct outside entrance.

F. The decision to expand or remodel an existing

building must be based upon a feasibility study and thorough examination of the existing structure by a registered architect and/or licensed engineer.

G. The parish, municipal corporation, or the parish municipality must provide 50 percent or more of the cost from local funds.

H. Local matching funds must be public funds for library construction and on deposit with the parish, the municipal corporation, or the parish municipality. Separate financial records must be maintained for the building project.

I. All applicable regulations of the Public Contract, Work and Improvements Law, Louisiana Revised Statutes 38:2211 et seq. must be adhered to for the library construction.

J. As soon as the construction contract is signed one complete copy must be sent to the State Library of Louisiana.

K. The State Library of Louisiana will provide limited consultative services for the librarian, members of the Board of Control, and architect in the planning for and construction of public library buildings. If the State Library of Louisiana considers an outside building consultant necessary, the State Library of Louisiana upon request of the Library Board will suggest names of qualified building consultants.

L. All equipment must be purchased on the basis of awards to the lowest qualified bidder on the basis of open competitive bidding, and according to state and local laws and regulations.

M. The applicant must send to the State Library of Louisiana the final fiscal report and the final fiscal audit of the project.

N. The applicant shall notify the State Library of Louisiana that the project has been completed according to the application.

O. The facility must display in a prominent place the "International Symbol of Access for the Handicapped".

P. In developing plans for public library construction local and state codes with regard to fire and safety must be observed.

Q. The State Library of Louisiana or its representative must have access to all records and documents which are required to be retained by the applicant.

R. The State Library of Louisiana will apply the following priorities in making building construction grants:

1. building for library serving as center for library system;

2. building for library in parish in which the average family income is less than the median family income in Louisiana;

3. building for library in parish which has not received prior grant under Title II of the Library Services and Construction Act.

S. The State Library of Louisiana will apply the following priorities in making grants for technological enhancements:

1. technology for library which will impact statewide or regional library services and resource sharing;

2. technology for library which will impact parish wide library services;

3. technology for library which will assist individual libraries with needed services;

4. technology for library in parish in which the average family income is less than the median family income in Louisiana;

5. technology for library in parish which has not received prior grant under Title II of the Library Services and Construction Act.

T. All requirements being met and conditions on which priorities are established being equal, the State Library of Louisiana will make grants in order that applications are approved and local funds are available.

U. Architect and applicant must conform to terms and conditions as set by AIA Document B151, Standard Form of Agreement Between Owner and Architect.

V. Public library construction projects must follow local and federal regulations guiding urban development, environmental impact and protection, and intergovernmental cooperation currently in force.

W. Public library construction projects must conform with local and federal rules and regulations on financial assistance for construction currently in force by the various levels of government.

**AUTHORITY NOTE:** Adopted in accordance with R.S. 25:9, R.S. 25:14 and R.S. 25:15.

**HISTORICAL NOTE:** Filed by the State Library of Louisiana at the Office of the State Register, December 11, 1974, amended LR 18:

Persons interested may submit written comments on the proposed changes by November 13, 1992 to: Thomas F. Jaques, State Librarian, State Library of Louisiana, Box 131, Baton Rouge, LA 70821.

Mark Hilzrim  
Secretary

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: Public Library Construction**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The rule amendments have no fiscal or economic impact on state or local governmental units. Changes will expand the parameters of the LSCA Title II construction grant program, but will not increase federal appropriation available for the award.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The rule amendments do not involve revenue collections of the state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)**

The rule amendments will not cost the affected persons any funds; federal funds (Library Services and Construction Act, Title II) can benefit library users through awarded grants, providing matching funds for new library building construction, or matching funds for technology for library operations.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The rule amendments do not effect competition and employment.

Thomas F. Jaques  
Assistant Secretary

John R. Rombach  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Economic Development  
Office of the Secretary**

**Employment Opportunity Loan Program**

Notice is hereby given that the Department of Economic Development, Office of the Secretary intends to adopt a rule regarding the Louisiana Employment Opportunity Loan Program to implement Act 938 of the 1992 Regular Session of the Louisiana Legislature.

The full text of this proposed rule may be viewed in the Emergency Rule Section of this issue of the *Louisiana Register*.

Interested parties may submit written comments until 4 p.m. October 20, 1992 to Nadia L. Goodman, Director of Policy and Planning, Office of the Secretary, Department of Economic Development, Box 94185, Baton Rouge, LA 70804-9185.

Kevin P. Reilly  
Secretary

**Fiscal and Economic Impact Statement  
For Administrative Rules**

**Rule Title: Employment Opportunity Loan Program**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The Department of Economic Development will have no implementation costs. See emergency rule published by the Louisiana Student Financial Assistance Commission in the August 20, 1992 issue of the *Louisiana Register*.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

This rule will have no direct effect on revenue collections. See emergency rule published by the Louisiana Student Financial Assistance Commission in the August 20, 1992 issue of the *Louisiana Register*.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)**

Trainee/employees participating in the program will be provided loans to pursue training, successful completion of which will result in permanent employment. Local communities and the state will ultimately profit from this program as a result of the expanded tax bases created by the creation of new jobs in the community. See emergency rule published by the Louisiana Student Financial Assistance Commission in the August 20, 1992 issue of the *Louisiana Register*.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There will be a beneficial effect to the state and to its citizens by the stimulation of the state's economy.

Nadia L. Goodman  
Director

John R. Rombach  
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Environmental Quality  
Office of Air Quality and Radiation Protection

Toxic Air Pollutants (AQ62)

Under the authority of the Louisiana Environmental Quality Act, particularly R.S. 30:2060 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Regulations, LAC 33:III.Chapter 51, (AQ62).

This proposed rule will expand the current list of toxic air pollutants to include all those compounds listed as hazardous air pollutants in the Federal Clean Air Act, S112. No emission control standards or ambient air standards are being proposed for these compounds. Other edits include corrections of typographical errors and internal references, as well as minor changes to improve clarity in the rule.

These proposed regulations are to become effective on December 20, 1992, or upon publication in the *Louisiana Register*.

Title 33  
ENVIRONMENTAL QUALITY  
Part III. Air

Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program

Subchapter A. Applicability, Definitions, and General Provisions

§5101. Applicability

The provisions of this Subchapter apply to the owner or operator of any major source, as defined herein.

Until the effective date of applicable minor source category rules, the provisions of LAC 33:III.5105.A, 5107, 5111.A.4, 5113, and 5115 apply to the owner or operator of any stationary source which was a major source upon promulgation of this Subchapter but which has achieved minor source status through reduction of emissions and reduction of potential to emit. Effective upon promulgation of applicable source category rules in accordance with R.S. 30:2060, the provisions of this Subchapter apply to the owner or operator of any minor source, if specified by such rules.

The provisions of this Subchapter do not apply to the consumer use, in a duration and frequency intended by the manufacturer, of products obtained through retail commerce, or to activities conducted on residential property. The provisions of this Subchapter do not apply to the distribution or application of pesticides.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2060, and R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:

§5103. Definitions, Units, and Abbreviations

\* \* \*

*Toxic Air Pollutant (TAP)*—any substance listed in Table 51.2 or Table 51.3 of this Chapter. Toxic air pollutants are listed pursuant to R.S. 30:2060 and, except for lead, do not include those pollutants for which National Ambient Air

Quality Standards have been established under Section 108 of the Federal Clean Air Act.

\* \* \*

*Wood Residue Fuel*—any wood based fuel including, but not limited to, bark, chips, fines, knots, and lumber. Unless approved by the secretary, wood residue fuel shall not include wood based fuels that have been treated with preservatives or that are building boards, such as plywood, particleboard, flakeboard, and oriented strand board.

\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2060 and R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:

§5105. Prohibited Activities and Special Provisions

\* \* \*

B. Special Provisions

\* \* \*

7. No later than December 20, 1994, the administrative authority shall initiate a review of toxic air pollutants derived from the burning of wood residue fuel at pulp and paper mills. Emissions from the combustion of such fuel shall be regulated under this Subchapter if the administrative authority determines that such regulation is appropriate and necessary. Until the administrative authority makes a final determination, emissions from the combustion of wood residue fuel are exempt from the provisions of LAC 33:III.5109.

\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2060 and R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:2104 (December 1991), amended LR 18:

§5107. Reporting Requirements and Availability of Information

A. Annual Emissions Reporting

The owner or operator of any stationary source that emits any toxic air pollutant listed in Table 51.1 or Table 51.3 shall submit a completed annual emissions report to the administrative authority in a format specified by the department. The owner or operator shall identify on the emissions report the quantity of emissions in the previous calendar year for any such toxic air pollutant emitted.

1. Initial Annual Emissions Report. The owner or operator of any major source subject to the requirements in Subsection A of this Section shall submit the completed initial annual emissions report to the administrative authority within 180 days of December 20, 1991. The initial report shall identify the quantity of emissions of toxic air pollutants listed in Table 51.1 for the calendar year 1991.

2. Subsequent Annual Emissions Reports. After the initial annual emissions report, the owner or operator of any stationary source subject to the requirements in Subsection A of this Section shall submit a completed annual emissions report to the administrative authority on or before July 1 of each year. Each subsequent report shall identify the quantity of emissions of all toxic air pollutants listed in Table 51.1 or Table 51.3.

B. Discharge Reporting Requirements

\* \* \*

2. Except as provided in Subsection B.5 of this Section, for any discharge into the atmosphere of a toxic air pollutant as a result of unauthorized bypassing of an emission control device, the owner or operator of the source from which the discharge occurs shall notify the department of the discharge by telephone immediately (but no later than three hours) after the beginning of the discharge.

\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2060 and R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:

**§5109. Emission Control and Reduction Requirements and Standards**

\* \* \*

**C. Standard Operating Procedure Requirements**

The owner or operator of any new or existing source required to report emissions in accordance with LAC 33:III.5107.A shall develop a standard operating procedure (SOP) within 120 days after achieving or demonstrating compliance with the standards specified in this Chapter. The SOP shall detail all operating procedures or parameters established by the owner or operator to ensure that compliance with the applicable standards is maintained and shall address, but not be limited to, operating procedures for any monitoring system in place, specifying procedures to ensure compliance with LAC 33:III.5113.C.6. A written copy of the SOP must be available on site or at an alternate approved location for inspection by the administrative authority. A copy of the SOP must be provided within 30 days upon request by the department. The requirements of this Subsection do not apply to emissions of those pollutants listed in Table 51.3.

**D. The following schedules for compliance will apply:**

1. Submittal of any compliance plan or certification of compliance pursuant to Subsection A or B of this Section and pertaining to a major source which is a pulp and paper mill shall be no later than December 20, 1993. Submittal of any other compliance plan or certification of compliance pursuant to Subsection A or B of this Section shall be no later than December 20, 1992.

\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2060 and R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:

**§5111. Permit Requirements, Application, and Review**

**A. Major Source Permit Requirements**

No owner or operator shall commence construction or modification of any major source without first obtaining written authorization from the administrative authority.

\* \* \*

2. Before commencement of any modification not specified in a compliance plan submitted under LAC 33:III.5109.D, the owner or operator shall:

\* \* \*

3. Before commencement of any modification specified in a compliance plan submitted pursuant to LAC 33:III.5109.D, the owner or operator shall obtain written

authorization from the administrative authority. Concurrently with submittal of the compliance plan, the owner or operator of an existing source shall:

- a. submit a letter indicating that the necessary permit modification (or new permit if no existing permit is in place) will be applied for by a date specified in the compliance schedule and requesting written authorization to construct; or
- b. submit a permit application in accordance with Subsection B of this Section.

4. The owner or operator of any existing major source which is operating without a Louisiana Air Permit, or which is not fully permitted, at the time of promulgation of this Chapter, shall apply for a permit in accordance with Subsection B of this Section. For sources not required to submit a compliance plan pursuant to LAC 33:III.5109.D, the permit application shall be submitted no later than December 20, 1993.

\* \* \*

**C. Permit Review Process**

\* \* \*

4. For applications submitted pursuant to standards prescribed under LAC 33:III.5117, 5121, 5133, 5137, 5139, 5151, 5161, 5163, and 5171, the administrative authority will notify the owner or operator of approval or intention to deny approval of a permit for construction or modification within 60 days after receiving sufficient information to evaluate an application under Subsection B of this Section.

\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2060 and R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:

**§5113. Notification of Start-up, Testing, and Monitoring**

\* \* \*

**B. Emission Tests and Waiver of Emission Tests**

1. The department may require any owner or operator to conduct tests to determine the emission of toxic air pollutants from any source whenever the department has reason to believe that an emission in excess of those allowed by this Chapter is occurring. The department may specify testing methods to be used in accordance with good professional practice. The department may observe the testing. All tests shall be conducted by qualified personnel. The department shall be given a copy of the test results in writing signed by the person responsible for the tests within 45 days after completion of the test.

\* \* \*

**C. Monitoring Requirements**

\* \* \*

8. The owner or operator of any monitoring system shall maintain records of monitoring data, monitoring system calibration checks, and the occurrence and duration of any period during which the monitoring system is malfunctioning or inoperative. These records shall be maintained at the source, or at an alternate location approved by the administrative authority, for a minimum of three years and made available, upon request, for inspection by the administrative authority.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2060 and R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of

§5115. Modification of NESHA Sources

\* \* \*

Table 51.1 Minimum Emission Rates Toxic Air Pollutants  
 CLASS I - Known and Probable Human Carcinogens

COMPOUNDS	CAS NO.	SYNONYMS	MINIMUM EMISSION RATE (POUNDS/YEAR)
ACRYLONITRILE	107-13-1		35.0
ARSENIC (AND COMPOUNDS) [1]	7440-38-2		25.0
ASBESTOS (FRIABLE)	1332-21-4		25.0
BENZENE	71-43-2	Benzol, Coal naphtha	260.0
BERYLLIUM [1]	7440-41-7	Glucinum	25.0
BIS (2-CHLOROETHYL) ETHER	111-44-4	Dichloroethyl ether	2,180.0
CADMIUM (AND COMPOUNDS) [1]	7440-43-9		25.0
CHROMIUM VI (AND COMPOUNDS) [1]	7440-47-3		25.0
1,2-DIBROMOETHANE	106-93-4	Ethylene bromide, Ethylene dibromide	25.0
EPICHLOROHYDRIN	106-89-8	2-Chloropropylene oxide	3,400.0
ETHYLENE OXIDE	75-21-8		35.0
FORMALDEHYDE	50-00-0	Methylene oxide	260.0
NICKEL (AND COMPOUNDS) [1]	7440-02-0		25.0
PROPYLENE OXIDE	75-56-9	Methyl ethylene oxide	700.0
VINYL CHLORIDE	75-01-4	Chloroethene, Monochloride ethylene	240.0

CLASS II - Suspected Human Carcinogens and Known or  
Suspected Human Reproductive Toxins

COMPOUNDS	CAS NO.	SYNONYMS	MINIMUM EMISSION RATE (POUNDS/YEAR)
ACETALDEHYDE	75-07-0	Acetic aldehyde	700.0
ACETONITRILE	75-05-8	Cyanomethane, Methyl cyanide	5,000.0
ACROLEIN	107-02-8	Acrylic aldehyde	25.0
ACRYLAMIDE	79-06-1	Acrylic amide	25.0
ALLYL CHLORIDE	107-05-1	3-chloropropene	25.0
ANILINE	62-53-3	Aminobenzene, Phenylamine	600.0
ANTIMONY (AND COMPOUNDS) [1]	7440-38-0		37.5
BARIUM (AND COMPOUNDS) [1]	7440-39-3		37.5
BIPHENYL	92-52-4	1,1-biphenyl, Xenene	97.5
1,3-BUTADIENE	106-99-0	Biethylene	25.0
CARBON DISULFIDE	75-15-0	Carbon bisulfide	2,400.0
CARBON TETRACHLORIDE	56-23-5	Tetrachloromethane	83.5
CHLORINATED DIBENZO-P- DIOXINS [2]	3168-87-9		0.0001
CHLORINATED DIBENZO FURANS [3]	51207-31-9		0.0001
CHLORINE DIOXIDE	10049-04-4	Chlorine peroxide	25.0
CHLORO BENZENE	108-90-7	Benzene chloride	25.0
CHLOROETHANE	75-00-3	Ethyl chloride	20,000.0
CHLOROFORM	67-66-3	Trichloromethane	69.5
CHLOROMETHANE	74-87-3	Methyl chloride	7,750.0
CHLOROPRENE	126-99-8		2,700.0
COPPER (AND COMPOUNDS) [1]	7440-50-8		25.0
DIAMINOTOLUENE	25376-45-8		250.0
DIBUTYL PHTHALATE	84-74-2	DBP	380.0
1,4-DICHLOROBENZENE	106-46-7	p-Dichlorobenzene	20,000.0
1,2-DICHLOROETHANE	107-06-2	Ethylene dichloride, EDC	48.5
DICHLOROMETHANE	75-09-2	Methylene chloride, DCM	540.0
1,2-DICLOROPROPANE	78-87-5	Propylene dichloride	20,000.0
1,3-DICHLOROPROPYLENE	542-75-6	1,3-dichloropropene, DCP	340.0
2,4-DINITROTOLUENE [5]	121-14-2	2,4-DNT	100.0
2,6-DINITROTOLUENE [5]	606-20-2		100.0
1,4-DIOXANE	123-91-1	Diethylene dioxide, p-dioxane	1,040.0
ETHYL ACRYLATE	140-88-5	Ethyl propenoate	1,500.0
ETHYL BENZENE	100-41-4	Phenylethane	20,000.0
GLYCOL ETHERS [6]	109-86-4		1,200.0
HEXACHLORO-1, 3-BUTADIENE	87-88-3	Hexachlorobutadiene	25.0

COMPOUNDS	CAS NO.	SYNONYMS	MINIMUM EMISSION RATE (POUNDS/YEAR)
HEXACHLOROBENZENE	118-74-1	Perchlorobenzene	870.0
HEXACHLOROETHANE	67-72-1	Perchloroethane	700.0
HYDRAZINE	302-01-2		25.0
MANGANESE (AND COMPOUNDS) [1]	7439-96-5		75.0
MERCURY (AND COMPOUNDS) [1]	7439-97-6		25.0
NITROBENZENE	98-95-3	Nitrobenzol	400.0
2-NITROPROPANE	79-46-9	Dimethylnitromethane	2,700.0
PHENOL	108-95-2	Benzenol, Carboic acid	1,400.0
POLYNUCLEAR AROMATIC HYDROCARBONS [7]	206-44-0	PAHs	25.0
SELENIUM (AND COMPOUNDS) [1]	7782-49-2		25.0
STYRENE	100-42-5	Vinylbenzene	2,000.0
TETRACHLOROETHANE	79-34-5	Acetylene tetrachloride	300.0
TETRACHLORO-ETHYLENE	127-18-4	Antisol 1, Carbon dichloride, Perchloroethylene	2,800.0
TOLUENE-2, 4-DIISOCYANATE [8]	584-84-9		25.0
TOLUENE-2, 6-DIISOCYANATE [8]	91-08-7		25.0
1,1,2-TRICHLOROETHANE	79-00-5	Vinyl trichloride	4,000.0
TRICHLOROETHYLENE	79-01-6	Acetylene trichloride	900.0
VINYLDINE CHLORIDE	75-35-4	1, 1-dichloroethylene	1,500.0
XYLENE (MIXED ISOMERS) [9]	1330-20-7	ortho-xylene, meta-xylene, para-xylene	20,000.0
ZINC (AND COMPOUNDS) [1]	7440-66-6		25.0

**CLASS III - Acute and Chronic (Non-Carcinogenic) Toxins**

COMPOUNDS	CAS NO.	SYNONYMS	MINIMUM EMISSION RATE (POUNDS/YEAR)
ACRYLIC ACID	79-10-7	Acroleic acid, Propene acid	400.0
AMMONIA [10]	7664-41-7		1,200.0
n-BUTYL ALCOHOL	71-36-3	n-butanol	11,000.0
CARBONYL SULFIDE	463-58-1	Carbon oxysulfide	1,000.0
CHLORINE	7782-50-5		100.0
CRESOL [4]	1319-73-3		1,600.0
CUMENE	98-82-8	Isopropyl benzene	18,000.0
ETHYLENE GLYCOL	107-21-1		9,000.0
n-HEXANE	110-54-3		13,000.0
HYDROCHLORIC ACID	7647-01-0	Hydrogen chloride	500.0
HYDROGEN CYANIDE	74-90-8	Cyclon	800.0
HYDROGEN FLUORIDE	7664-39-3	Fluoric acid	63.0

COMPOUNDS	CAS NO.	SYNONYMS	MINIMUM EMISSION RATE (POUNDS/YEAR)
HYDROGEN SULFIDE	7783-06-4		1,000.0
MALEIC ANHYDRIDE	108-31-6	cis-Butenedioic anhydride	70.0
METHANOL	67-56-1	Methyl alcohol	20,000.0
METHYL ETHYL KETONE	78-93-3	MEK	20,000.0
METHYL ISOBUTYL KETONE	108-10-1	MIBK	15,000.0
METHYL METHACRYLATE	80-62-6		20,000.0
NITRIC ACID	7697-37-2		300.0
PHOSGENE	75-44-5	Carbonyl chloride	30.0
PHTHALIC ANHYDRIDE	85-44-9		400.0
PROPRIONALDEHYDE	123-38-6		700.0
PYRIDINE	110-86-1	Azine	1,200.0
SULFURIC ACID	7664-93-9		75.0
TOLUENE	108-88-3	Methylbenzene	20,000.0
1,1,1-TRICHLOROETHANE	71-55-6	Chloroethene	20,000.0
VINYL ACETATE	108-05-4		2,600.0

**EXPLANATORY NOTES:**

[1] Includes any unique chemical substance that contains the listed metal as part of that chemical's infrastructure. Concentrations are based on  $\mu\text{g} (\times)/\text{m}^3$ , where  $\times$  is the elemental form of the metal.

[2] Includes only 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD), and octachlorodibenzo-p-dioxin (OCDD).

[3] Includes all isomers of chlorinated dibenzo-furans.

[4] Includes o-, m-, and p-cresol, and mixed isomers.

[5] Includes 2,4- and 2,6-dinitrotoluene and mixed isomers.

[6] Glycol ethers refers to the following compounds:

Ethylene glycol monomethyl ether (CAS# 109864)

Ethylene glycol monomethyl ether acetate (CAS# 110496)

Ethylene glycol monoethyl ether (CAS# 110805)

Ethylene glycol monoethyl ether acetate (CAS# 111159)

Diethylene glycol dimethyl ether (CAS# 111966)

Ethylene glycol dimethyl ether (CAS# 110714)

[7] Includes organic compounds with more than one fused benzene ring and which have a boiling point greater than or equal to 100° C.

[8] Includes toluene-2,4- and 2,6-diisocyanate and mixed isomers.

[9] Includes o-, m-, and p-xylene, and mixed isomers.

[10] Excludes soil or foliar application of ammonia in agricultural practices.

Table 51.2 Louisiana Toxic Air Pollutant Ambient Air Standards



COMPOUNDS	CAS NO.	CLASS	AMBIENT AIR STANDARD	
			( $\mu\text{g}/\text{m}^3$ ) (8 HOUR AVG.)	( $\mu\text{g}/\text{m}^3$ ) (ANNUAL AVG.)
ACETALDEHYDE	75-07-0	II	4,290.00	
ACETONITRILE	75-05-8	II	940.00	
ACROLEIN	107-02-8	II	5.40	
ACRYLAMIDE	79-06-1	II		0.08
ACRYLIC ACID	79-10-7	III	140.00	
ACRYLONITRILE	107-13-1	I		1.47
ALLYL CHLORIDE	107-05-1	II	71.40	
AMMONIA [11]	7664-41-7	III	640.00	
ANILINE	62-53-3	II	181.00	
ANTIMONY (AND COMPOUNDS) [1]	7440-36-0	II	11.90	
ARSENIC (AND COMPOUNDS) [1]	7440-38-2	I		0.02
ASBESTOS (FRIABLE)	1332-21-4	I		+
BARIUM (AND COMPOUNDS) [1]	7440-39-3	II	11.90	
BENZENE	71-43-2	I		12.00
BERYLLIUM [1]	7440-41-7	I		0.04
BIPHENYL	92-52-4	II	31.00	
BIS (2-CHLOROETHYL) ETHER	111-44-4	I		0.30
1,3-BUTADIENE	106-99-0	II		0.92
n-BUTYL ALCOHOL	71-36-3	III	3,620.00	
CADMIUM (AND COMPOUNDS) [1]	7440-43-9	I		0.06
CARBON DISULFIDE	75-15-0	II	86.00	
CARBON TETRACHLORIDE	56-23-5	II		6.67
CARBONYL SULFIDE	463-58-1	III	24.30	
CHLORINATED DIBENZO-p-DIOXINS [2]	3268-87-9	II		.003
CHLORINATED DIBENZO FURANS [3]	51207-31-9	II		.003
CHLORINE	7782-50-5	III	35.7	
CHLORINE DIOXIDE	10049-04-4	II	6.67	
CHLOROBENZENE	108-90-7	II	1,100.00	
CHLOROETHANE	75-00-3	II	62,900.00	
CHLOROFORM	67-66-3	II		4.30
CHLOROMETHANE	74-87-3	II		55.56
CHLOROPRENE	126-99-8	II	857.00	
CHROMIUM VI (AND COMPOUNDS) [1]	7440-47-3	I		0.01
COPPER (AND COMPOUNDS) [1]	7440-50-8	II	23.80	
CRESOL [4]	1319-73-3	III	276.00	
CUMENE	98-82-8	III	5,860.00	
DIAMINOTOLUENE	25376-45-8	II	181.00	
1,2-DIBROMOETHANE	106-93-4	I		0.45

COMPOUNDS	CAS NO.	CLASS	AMBIENT AIR STANDARD	
			( $\mu\text{g}/\text{m}^3$ *) (8 HOUR AVG.)	( $\mu\text{g}/\text{m}^3$ **) (ANNUAL AVG.)
DIBUTYL PHTHALATE	84-74-2	II	119.00	
1,4-DICHLORO-BENZENE	106-46-7	II	10,700.00	
1,2-DICHLOROETHANE	107-06-2	II		3.85
DICHLOROMETHANE	75-09-2	II		212.77
1,2-DICHLOROPROPANE	78-87-5	II	8,260.00	
1,3-DICHLORO-PROPYLENE	542-75-6	II	107.00	
2,4-DINITROTOLUENE [5]	121-14-2	II	35.70	
2,6-DINITROTOLUENE [5]	606-20-2	II	35.70	
1,4-DIOXANE	123-91-1	II	2,140.00	
EPICHLOROHYDRIN	106-89-8	I		83.00
ETHYL ACRYLATE	140-88-5	II	476.00	
ETHYL BENZENE	100-41-4	II	10,300.00	
ETHYLENE GLYCOL	107-21-1	III	3,020.00	
ETHYLENE OXIDE	75-21-8	I		1.00
FORMALDEHYDE	50-00-0	I		7.69
GLYCOL ETHERS [6]	109-86-4	II	571.00	
HEXACHLORO-1,3-BUTADIENE	87-68-3	II		4.55
HEXACHLOROBENZENE	118-74-1	II		0.20
HEXACHLOROETHANE	67-72-1	II		25.00
n-HEXANE	110-54-3	III	4,190.00	
HYDRAZINE	302-01-2	II		0.02
HYDROCHLORIC ACID	7647-01-0	III	180.00	
HYDROGEN CYANIDE	74-90-8	III	260.00	
HYDROGEN FLUORIDE	7664-39-3	III	61.90	
HYDROGEN SULFIDE	7783-06-4	III	330.00	
MALEIC ANHYDRIDE	108-31-6	III	23.80	
MANGANESE (AND COMPOUNDS) [1]	7439-96-5	II	27.60	
MERCURY (AND COMPOUNDS) [1]	7439-97-6	II	1.19	
METHANOL	67-56-1	III	6,240.00	
METHYL ETHYL KETONE	78-93-3	III	14,000.00	
METHYL ISOBUTYL KETONE	108-10-1	III	4,880.00	
METHYLMETH-ACRYLATE	80-62-6	III	9,760.00	
NICKEL (AND COMPOUNDS) [1]	7440-02-0	I		0.21
NICKEL (REFINERY DUST) [1]	7440-02-0	I		0.42
NITRIC ACID	7697-37-2	III	120.00	

COMPOUNDS	CAS NO.	CLASS	AMBIENT AIR STANDARD	
			( $\mu\text{g}/\text{m}^3$ *) (8 HOUR AVG.)	( $\mu\text{g}/\text{m}^3$ **) (ANNUAL AVG.)
NITROBENZENE	98-95-3	II	119.00	
2-NITROPROPANE	79-46-9	II		20.00
PHENOL	108-95-2	II	452.00	
PHOSGENE	75-44-5	III	9.50	
PHTHALIC ANHYDRIDE	85-44-9	III	145.00	
POLYNUCLEAR AROMATIC HYDROCARBONS [7]	206-44-0	II		0.06
PROPIONALDEHYDE	123-38-6	III	4,290.00	
PROPYLENE OXIDE	75-56-9	I		27.00
PYRIDINE	110-86-1	III	381.00	
SELENIUM (AND COMPOUNDS) [1]	7782-49-2	II	4.76	
STYRENE	100-42-5	II	5,070.00	
SULFURIC ACID	7664-93-9	III	23.80	
1,1,2,2 TETRA-CHLOROETHANE	79-34-5	II		1.70
TETRACHLORO-ETHYLENE	127-18-4	II		105.26
TOLUENE	108-88-3	III	8,900.00	
TOLUENE-2,4-DIISOCYANATE [8]	584-84-9	II	0.86	
TOLUENE-2,6-DIISOCYANATE [8]	91-08-7	II	0.86	
1,1,1-TRICHLOROETHANE	71-55-6	III	4,550.00	
1,1,2-TRICHLOROETHANE	79-00-5	II		6.25
TRICHLOROETHYLENE	79-01-6	II		58.80
VINYL ACETATE	108-05-4	III	830.00	
VINYL CHLORIDE	75-01-4	I		1.19
VINYLDENE CHLORIDE	75-35-4	II		2.00
XYLENE (MIXED ISOMERS) [9]	1330-20-7	II	10,300.00	
ZINC (AND COMPOUNDS) [1][10]	1314-13-2	II	119.00	

**EXPLANATORY NOTES:**

\* Based on one forty-second of the selected occupational exposure level, or other data determined to be superior by the administrative authority.

\*\* Based on unit risk factors and a residual risk of one in ten thousand, or other data determined to be superior by the administrative authority.

+ Refer to standards pursuant to LAC 33:III.5151.

[1] Includes any unique chemical substance that contains the listed metal as part of that chemical's infrastructure. Concentrations based on  $\mu\text{g}(\text{x})/\text{m}^3$ , where x is

the elemental form of the metal.

[2] Includes only 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD), and octachlorodibenzo-p-dioxin (OCDD).

[3] Includes all isomers of chlorinated dibenzo-furans.

[4] Includes o-, m-, and p-cresol, and mixed isomers.

[5] Includes 2,4- and 2,6-dinitrotoluene and mixed isomers.

[6] Glycol ethers refers to the following compounds:

Ethylene glycol monomethyl ether (CAS# 109864)  
 Ethylene glycol monomethyl ether acetate (CAS# 110496)  
 Ethylene glycol monoethyl ether (CAS# 110805)  
 Ethylene glycol monoethyl ether acetate (CAS# 111159)  
 Diethylene glycol dimethyl ether (CAS# 111966)  
 Ethylene glycol dimethyl ether (CAS# 110714)

[7] Includes organic compounds with more than one fused benzene ring and which have a boiling point greater

than or equal to 100° C.

[8] Includes toluene-2,4- and 2,6-diisocyanate and mixed isomers.

[9] Includes o-, m-, and p-xylene, and mixed isomers.

[10] Concentrations based on mg ZnO/m<sup>3</sup>.

[11] Excludes soil or foliar application of ammonia in agricultural practices.

Table 51.3 LOUISIANA TOXIC AIR POLLUTANTS SUPPLEMENTAL LIST\*

COMPOUNDS	CAS NO.	CLASS	SYNONYMS
ACETAMIDE	60-35-5	II	
ACETOPHENONE	98-86-2	III	
2-ACETYLAMINOFLUORENE	53-96-3	II	N-fluoren-2-yl acetamide
4-AMINOBIPHENYL	92-67-1	I	4-biphenylamine, 4-aminodiphenyl
o-ANISIDINE	90-04-0	II	
BENZIDINE	92-87-5	I	
BENZOTRICHLORIDE	98-07-7	II	Benzyl trichloride
BENZYL CHLORIDE	100-44-7	II	Tolyl chloride
Bis(2-ethylhexyl)phthalate	117-81-7	II	DEHP, Di-(2-ethylhexyl)phthalate
BIS(CHLOROMETHYL)ETHER	542-88-1	I	
BROMOFORM	75-25-2	II	Tribromomethane
CALCIUM CYANAMIDE	156-62-7	III	
CAPROLACTAM	105-60-2	II	Hexahydro-2H-azepin-2-one
CAPTAN	133-06-2	II	
CARBARYL	63-25-2	II	1-naphthalenol, methylcarbonate
CATECHOL	120-80-9	III	Pyrocatechol, o-benzenedrol
CHLORAMBEN	133-90-4	III	3-amino-2,5-dichlorobenzoic acid
CHLORDANE	57-74-9	II	
CHLOROACETIC ACID	79-11-8	II	
2-CHLOROACETOPHENONE	532-27-4	II	
CHLOROBENZILATE	510-15-6	II	4,4'-dichlorobenzilic acid ethyl ester
CHLOROMETHYL METHYL ETHER	107-30-2	I	CMME, chlorodimethyl ether
COBALT COMPOUNDS	10210-68-1	II	
COKE OVEN EMISSIONS [1]		I	
CYANIDE COMPOUNDS [4]	592-01-8	III	
2,4-D, SALTS AND ESTERS	94-75-7	II	2,4-dichlorophenoxy-acetic acid
DDE	72-55-9	II	p,p'-dichlorodiphenyldichloroethylene
DIAZOMETHANE	334-88-3	III	Azinethylene, diazirine
1,2-DIBROMO-3-CHLOROPROPANE	96-12-8	II	DBCP
3,3'-DICHLOROBENZIDENE	91-94-1	II	Dichlorobenzidene Base
DICHLORVOS	62-73-7	II	2,2-dichlorovinyl dimethyl phosphate
DIETHANOLAMINE	111-42-2	III	DEA, Bis(2-hydroxy ethyl)amine

N,N-DIETHYL ANILINE	91-66-7	III	
DIETHYL SULFATE	64-67-5	I	Ethyl sulfate
3,3'-DIMETHOXYBENZIDENE	119-90-4	II	o-dianisidine
DIMETHYL AMINOAZOBENZENE	60-11-7	II	4-dimethylaminoazobenzene
N,N-DIMETHYL ANILINE	121-69-7	III	
DIMETHYL FORMAMIDE	68-12-2	II	DMF, DMFA
1,1-DIMETHYL HYDRAZINE	57-14-7	II	Dimazine
DIMETHYL PHTHALATE	131-11-3	II	Phthalic acid methyl ester
DIMETHYL SULFATE	77-78-1	I	Methyl sulfate, DMS

COMPOUNDS	CAS NO.	CLASS	SYNONYMS
3,3'-DIMETHYLBENZIDINE	119-93-7	II	3,3'-tolidine, diaminoditoyl
N,N-DIMETHYL CARBAMOYL CHLORIDE	79-44-7	I	(Dimethylamino)carbonyl chloride
4,6-DINITRO-o-CRESOL, AND SALTS	534-52-1	II	
2,4-DINITROPHENOL	51-28-5	II	
1,2-DIPHENYLHYDRAZINE	122-66-7	II	Hydrazobenzene
1,2-EPOXYBUTANE	106-88-7	III	1,2-butylene oxide, 1-butene oxide
ETHYL CARBAMATE	51-79-6	II	Urethane
ETHYLENE DIBROMIDE	106-93-4	I	EDB, Dibromoethane
ETHYLENE IMINE	151-56-4	II	Aziridine
ETHYLENE THIOUREA	96-45-7	II	2-imidazolidinethione
ETHYLIDENE DICHLORIDE	75-34-3	II	1,1-dichloroethane
FINE MINERAL FIBERS [2]	7440-21-3	I	
GLYCOL ETHERS [3]	52286-19-8	II	
HEPTACHLOR	76-44-8	II	3-chlorochlordene
HEXACHLOROCYCLOPENTADIENE	77-47-4	III	HCCPD
HEXAMETHYLENE-1,6-DIISOCYANATE	822-06-0	III	1,6-diisocyanatohexane
HEXAMETHYL PHOSPHORAMIDE	680-31-9	II	HMPA, MEMPA, hempa
HYDROQUINONE	123-31-9	III	Quinol, hydroquinol, p-hydroxybenzene
ISOPHORONE	78-59-1	II	isoacetophorone
LEAD COMPOUNDS	7758-97-6	II	
LINDANE, (ALL ISOMERS)	58-89-9	II	Benzene hexachloride (all 5 isomers)
METHOXYCHLOR	72-43-5	II	Methoxy DDT, DMDT, Dimethoxy-DDT
METHYL BROMIDE	74-83-9	III	Bromomethane
METHYL IODIDE	74-88-4	II	Iodomethane
METHYL ISOCYANATE	624-83-9	II	
METHYL TERT BUTYL ETHER	1634-04-4	III	MTBE
4,4'-METHYLENEBIS(2-CHLOROANILINE)	101-14-4	II	MOCA, MBOCA
4,4'-METHYLENE DIANILINE	101-77-9	II	MDA, p,p'-diaminodiphenylmethane
NAPHTHALENE	91-20-3	II	Moth balls
4-NITROBIPHENYL	92-93-3	II	4-nitrodiphenyl, p-nitrobiphenyl

4-NITROPHENOL	100-02-7	III	p-nitrophenol
N-NITROSO-N-METHYLUREA	684-93-5	II	N-methyl-N-nitrosourea
N-NITROSODIMETHYLAMINE	62-75-9	I	DMN, dimethylnitrosoamine
N-NITROSOMORPHOLINE	59-89-2	II	4-nitrosomorpholine
PARATHION	56-38-2	II	AATP, ethyl parathion
PENTACHLORONITROBENZENE	82-68-8	II	Quintobenzene, PCNB
PENTACHLOROPHENOL	87-86-5	II	PCP
p-PHENYLENEDIAMINE	106-50-3	III	p-diaminobenzene
PHOSPHINE	7803-51-2	III	Hydrogen phosphide
PHOSPHORUS	7723-14-0	III	(red or white)
POLYCHLORINATED BIPHENYLS	1336-36-3	II	PCB, Aroclors

COMPOUNDS	CAS NO.	CLASS	SYNONYMS
1,3-PROPANE SULTONE	1120-71-4	II	1,2-oxathiolane-2, 2-dioxide
beta-PROPIOLACTONE	57-57-8	II	2-oxetanone
PROPOXUR	114-26-1	III	Baygon, o-isopropoxyphenyl methylcarbamate
1,2-PROPYLENEIMINE	75-55-8	II	2-methyl aziridine, Propylene imine
QUINOLINE	91-22-5	III	Chinoline
QUINONE	106-51-4	III	Chinone, 1,4-benzoquinone, p-benzoquinone
STYRENE OXIDE	96-09-3	I	1,2-epoxyethylbenzene
TITANIUM TETRACHLORIDE <sup>1</sup>	7550-45-0	III	Titanic chloride
2,4-TOLUENE DIAMINE	95-80-7	II	MTD, Toluene-2,4-diamine
o-TOLUIDINE	95-53-4	II	o-aminotoluene
TOXAPHENE	8001-35-2	II	Chlorinated camphene
1,2,4-TRICHLOROBENZENE	120-82-1	II	unsym-trichlorobenzene
2,4,5-TRICHLOROPHENOL	95-95-4	III	
2,4,6-TRICHLOROPHENOL	88-06-2	II	2,4,6-T
TRIETHYLAMINE	121-44-8	III	
TRIFLURALIN	1582-09-8	II	2,6-dinitro-N,N-dipropyl-4-(trifluoromethyl)benzamine
2,2,4-TRIMETHYLPENTANE	540-84-1	III	Isooctane
VINYL BROMIDE	593-80-2	II	Bromoethane

#### EXPLANATORY NOTES:

\* For pollutants listed in Table 51.3, minimum emission rates and ambient air standards have not been established. Certain requirements of this Subchapter do not apply to these pollutants. For example, the provisions of LAC 33:III.5109, MACT and Ambient Air Standard Requirements and Standard Operating Procedure requirements, do not apply. Emissions of Table 51.3 pollutants shall not be counted toward a facility's total toxic air pollutant emissions in determining whether a stationary source is a major source for the purposes of this Subchapter. The provisions of LAC 33:III.5107.A, B, and C, Reporting Requirements and Availability of Information, do apply to emissions of Table 51.3 pollutants. Such emissions

shall be reported on the Annual Emissions Reports provided for under LAC 33:III.5107.A.2, beginning with the report due July 1, 1993. To determine the applicability of other provisions to the pollutants listed in this table, refer to the text of this Subchapter.

[1] Coke manufacturers to which the reporting requirements of this Subchapter apply should report emissions of listed Louisiana toxic air pollutants in the same format used by all other affected major sources in the state.

[2] Includes mineral fiber emissions from facilities manufacturing or processing glass, rock, or slag fibers (or other mineral derived fibers) of average diameter 1

micrometer or less.

[3] Excludes those glycol ethers listed in Table 51.2. Those glycol ethers listed in Table 51.2 are subject to all provisions of this Subchapter. Includes any other mono- and di-ethers of ethylene glycol, diethylene glycol, and triethylene glycol  $R(OCH_2CH_2)_n-OR'$  where

$n = 1, 2, \text{ or } 3$

$R = \text{alkyl or aryl groups}$

$R' = R, H, \text{ or groups which, when removed, yield glycol ethers with the structure:}$

$R(OCH_2CHO)_n-OH$ . Polymers are excluded from the glycol category.

[4]  $X'CN$  where  $X = H'$  or any group where a formal dissociation may occur. For example  $KCN$  or  $Ca(CN)_2$

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2060 and R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:

**Subchapter B. (Reserved)**

**Subchapter C. (Reserved)**

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**§5121. Emission Standard For Vinyl Chloride (Includes ethylene dichloride and polyvinyl chloride plants)**

\* \* \*

**F. Emission Standard for Ethylene Dichloride, Vinyl Chloride, and Polyvinyl Chloride Plants**

An owner or operator of an ethylene dichloride, vinyl chloride, and/or polyvinyl chloride plant shall comply with the requirements of this Section.

1. Relief Valve Discharge. Except for an emergency relief discharge and except as provided in Subsection F.4 of this Section, there is to be no discharge to the atmosphere from any relief valve on any equipment in vinyl chloride service. An emergency relief discharge means a discharge which could not have been avoided by taking measures to prevent the discharge. Within seven days of any relief valve discharge, except for those subject to Subsection F.4 of this Section, the owner or operator of the source from which the relief valve discharge occurs shall submit to the administrative authority a report in writing containing information on the source, nature and cause of the discharge, the date and time of the discharge, the approximate total vinyl chloride loss during the discharge, the method used for determining the vinyl chloride loss (the calculation of the vinyl chloride loss), the action that was taken to prevent the discharge, and measures adopted to prevent future discharges.

\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2054.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:

**§5161. Emission Standard For Beryllium**

\* \* \*

**D. Stack Sampling**

\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2054.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation

Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:

**§5171. Louisiana Emission Standard for Equipment Leaks (Fugitive Emission Sources)**

**A. Applicability and Designation of Sources**

\* \* \*

4. Any equipment in benzene service that is located at a plant site designed to produce or use less than 1100 tons (300,000 gallons) of benzene per year is exempt from the requirements of this Section, except that the requirements of Subsection R.9.a of this Section shall still apply.

\* \* \*

**R. Recordkeeping Requirements**

9. The following information shall be recorded in a log that is kept in a readily accessible location for use in determining exemptions as provided in the applicability section of this Subchapter and other specific subchapters:

a. an analysis demonstrating the design capacity of the process unit; or

\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with R.S.30:2054.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:

A public hearing will be held on October 26, 1992, at 1:30 p.m. in the Maynard Ketcham Building, Room 341 (Recital Room), 7290 Bluebonnet Boulevard, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than October 28, 1992, at 4:30 p.m., to David Hughes, Enforcement and Regulatory Compliance Division, Box 82282, Baton Rouge, LA, 70884-2282 or to 7290 Bluebonnet Boulevard, 4th Floor, Baton Rouge, LA, 70810. Commentors should reference this proposed regulation by (AQ62).

James B. Thompson, III  
Assistant Secretary

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: Toxic Air Pollutants (AQ62)**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
In general there is an additional cost (~ \$30,000) to the state governmental unit which will be caused by the implementation of the proposed rule. Most local governmental units will not be impacted. However, local governmental units which operate incinerators which emit air toxic substances newly listed will incur an expense to detect, quantify and report the emissions of those air toxic substances and fees based upon the reported emissions. This additional cost to local governmental units is expected to be negligible compared to the operating expenses for such a unit.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
In general there is an increase in revenue collections (~ \$30,000) by the state governmental unit

which is expected from the implementation of the proposed rule. Local governmental units are not anticipated to have any effect on revenue collections.

III. **ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)**

The regulated facilities are expected to incur a cost less than \$10,000 for the expense to detect, quantify and report those air toxics and a cost less than \$2,500 (average of \$200) for fees on their reported emissions. These costs may vary by methods used from using acceptable federal AP-42 factors to estimate emissions to the more expensive method of stack testing and consulting engineering contract and for emissions reported.

IV. **ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no anticipated effect on competition or employment within Louisiana or within the United States. Any impact in the international market will be experienced by the implementation of the Federal Clean Air Act Amendment provisions which have not been projected.

Gus Von Bondungen  
Assistant Secretary

John R. Rombach  
Legislative Fiscal  
Officer

**NOTICE OF INTENT**

**Department of Environmental Quality  
Office of Solid and Hazardous Waste**

**Hazardous Waste Boilers/Industrial Furnaces II (HW32)  
(LAC 33:V.Subpart I)**

Under the authority of the Louisiana Environmental Quality Act, particularly La. R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, La. R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Hazardous Waste Regulations, LAC 33:V.Subpart I, (Log HW32).

This proposed rule will revise existing state regulations to be consistent with current federal regulations. It may be more stringent than federal regulations in some areas. This will allow the state to meet all requirements concerning the authorization process, which will effectively ensure grant support funds. This proposed rule will expand controls on hazardous waste combustion to regulate air emissions from the burning of hazardous waste in boilers and industrial furnaces. Standards are set for emissions of toxic organic compounds, toxic metals, hydrogen chloride, chlorine gas, and particulate matter from boilers and industrial furnaces burning hazardous waste. This rule will also address facility standards, storage units, interim status, and other issues.

These proposed regulations are to become effective on December 20, 1992, or upon publication in the *Louisiana Register*.

A public hearing will be held on October 26, 1992, at

1:30 p.m. in the Maynard Ketcham Building, Room 341 (Recital Room), 7290 Bluebonnet Boulevard, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments.

Copies of this proposed regulation may be obtained from the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70802.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than October 28, 1992, at 4:30 p.m., to David Hughes, Enforcement and Regulatory Compliance Division, Box 82282, Baton Rouge, LA, 70884-2282 or to 7290 Bluebonnet Boulevard, 4th Floor, Baton Rouge, LA, 70810. Commentors should reference this proposed regulation by the Log HW32. This proposed regulation is available for inspection at the following locations from 8:00 a.m. until 4:30 p.m.

Department of Environmental Quality, 7290 Bluebonnet Boulevard, 4th Floor, Baton Rouge, LA 70810.

Department of Environmental Quality, 804 31st Street, Monroe, LA 71203.

Department of Environmental Quality, State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101.

Department of Environmental Quality, 3519 Patrick Street, Lake Charles, LA 70605.

Department of Environmental Quality, 3945 North I-10 Service Road West, Metairie, LA 70002.

Department of Environmental Quality, 100 Asma Boulevard, Suite 151, Lafayette, LA 70508.

James B. Thompson, III  
Assistant Secretary

**Fiscal and Economic Impact Statement  
for Administrative Rules**

**Rule Title: Boiler/Industrial Furnace (HW 32)**

- I. **ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**  
No additional cost to state or local government is anticipated.
- II. **ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**  
State government revenue collections are expected to increase by about \$260,055.
- III. **ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS ON NON-GOVERNMENTAL GROUPS (Summary)**  
The regulated community (facilities with a boiler or industrial furnace) will experience an approximate average increase in cost of \$13,687 per regulated facility. There are 19 facilities effected by this rule. The combined effect for all 19 facilities is a net fee increase of \$260,055 per year.
- IV. **ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**  
Little, if any, impact on competition and employment is expected since the costs are small relative to the typical facility size and all facilities must follow the same rules.

Glenn A. Miller  
Assistant Secretary

John R. Rombach  
Legislative Fiscal Officer



## NOTICE OF INTENT

### Department of Environmental Quality Office of Solid and Hazardous Waste

Wood Preserving (HW33) (LAC 33:V.Subpart 1)

Under the authority of the Louisiana Environmental Quality Act, particularly R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Hazardous Waste Regulations, LAC 33:V.Subpart 1, (Log #HW33).

The proposed regulations would revise existing state regulations to be consistent with current federal regulations. It may be more stringent than federal regulations in some areas. The proposed regulations are concerned with listing as hazardous three categories of wastes from wood preserving operations that use chlorophenolic, creosote, and/or inorganic (arsenical and chromium) preservatives. This rule also includes permitting and interim status standards for drip pads used to assist in the collection of treated wood drippage.

These proposed regulations are to become effective on December 20, 1992, or upon publication in the *Louisiana Register*.

A public hearing will be held on October 26, 1992, at 1:30 p.m. in the Maynard Ketcham Building, Room 341 (Recital Room), 7290 Bluebonnet Boulevard, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than October 28, 1992, at 4:30 p.m., to David Hughes, Enforcement and Regulatory Compliance Division, Box 82282, Baton Rouge, LA, 70884-2282 or to 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810. Commentors should reference this proposed regulation by the Log #HW33. Check or money order is required in advance for each copy of HW33. This proposed regulation is available at the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70804 (504)342-5015, and at the following locations from 8 a.m. until 4:30 p.m.

Department of Environmental Quality, 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810;

Department of Environmental Quality, 804 31st Street, Monroe, LA 71203;

Department of Environmental Quality, State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101;

Department of Environmental Quality, 3519 Patrick Street, Lake Charles, LA 70605;

Department of Environmental Quality, 3945 North I-10 Service Road West, Metairie, LA 70002;

Department of Environmental Quality, 100 Asma Boulevard, Suite 151, Lafayette, LA 70508.

James B. Thompson, III  
Assistant Secretary

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: Wood Preserving Rule (HW33)**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
No additional cost to state or local government is anticipated.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There will be no significant effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS ON NON-GOVERNMENTAL GROUPS (Summary)  
There will be no significant costs and /or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There will be no significant effect on competition or employment.

Glenn A. Miller  
Assistant Secretary

John R. Rombach  
Legislative Fiscal Officer

## NOTICE OF INTENT

### Department of Environmental Quality Office of Solid and Hazardous Waste

Solid Waste Revisions (SW05)  
(LAC 33:VII.Chapter 1-11)

Under the authority of the Louisiana Environmental Quality Act, particularly R.S. 30:2001 et seq., particularly R.S. 30:2154 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Solid Waste Division Regulations, LAC 33:VII.Subpart 1.Chapters 1-11, (Log SW05).

These regulations will extensively revise the Solid Waste Regulations (LAC 33:VII.Subpart 1). These amendments include permitting requirements for composting facilities, woodwaste landfills and construction demolition-debris landfills. They will provide procedural transition for facilities and applications currently in the program to meet the proposed regulations; and revise design criteria for liner systems, leachate collection and removal systems, and gas monitoring systems. These regulations will incorporate the federal Subtitle D regulations, incorporation of which is required before Louisiana can become an approved state by EPA.

These proposed regulations are to become effective on December 20, 1992, or upon publication in the *Louisiana Register*.

A public hearing will be held on October 27, 1992, at 1:30 p.m. in the Maynard Ketcham Building, Room 341 (Recital Room), 7290 Bluebonnet Boulevard, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than October 28, 1992, at 4:30 p.m., to David Hughes, Enforcement and Regulatory Compliance

Division, Box 82282, Baton Rouge, LA, 70884-2282 or to 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA, 70810. Commentors should reference this proposed regulation by the Log #SW05. Check or money order is required in advance for each copy of SW05. This proposed regulation is available at the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70804 (504)342-5015 and also at the following locations from 8 a.m. until 4:30 p.m.

Department of Environmental Quality, 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810;

Department of Environmental Quality, 804 31st Street, Monroe, LA 71203;

Department of Environmental Quality, State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101;

Department of Environmental Quality, 3519 Patrick Street, Lake Charles, LA 70605;

Department of Environmental Quality, 3945 North I-10 Service Road West, Metairie, LA 70002;

Department of Environmental Quality, 100 Asma Boulevard, Suite 151, Lafayette, LA 70508.

James B. Thompson, III  
Assistant Secretary

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### Rule Title: Solid Waste Regulations

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Estimated implementation costs to state government are \$141,220 for FY 93-94, \$135,128 for FY 94-95 and \$140,495 for FY 95-96. These costs result from an additional five employees in the Solid Waste Division to implement this rule. The implementation costs are summarized on the worksheet in Part I.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

State revenue collection will be increased by the collection of fees from the following types of facilities for application and annual monitoring and maintenance for: Construction/Demolition Debris (88), Composting (7) and Processors (12) - total for FY 93-94 will be \$101,000. For FY's 94-95 and 95-96 the total collection for the annual monitoring and maintenance fees will be \$53,500. The cost to local governments will be insignificant due to the implementation of the Subtitle D federal regulations which will regulate municipal solid waste facilities.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The costs to affected persons is estimated as follows: \$15,754,000 for FY 93-94, \$18,644,000 for FY 94-95 and \$39,242,000 for FY 95-96 chiefly due to construction requirements for landfills, landfarms and surface impoundments needed to adequately protect the environment. The economic benefit due to the avoided cost of land and groundwater cleanup, and possible human health effects and other environmental problems will have considerable impact but it is difficult to quantify.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Construction and operational requirements may

increase employment (construction, consulting services, etc.) but this would be difficult to quantify.

Glenn A. Miller  
Assistant Secretary

John R. Rombach  
Legislative Fiscal Officer

### NOTICE OF INTENT

#### Office of the Governor Division of Administration Office of Telecommunications Management

The Division of Administration, Office of Telecommunications Management hereby gives notice in accordance with R.S. 49:950 et. seq., and R.S. 39:140-143 that it intends to amend LAC 4:IX relative to telecommunications.

#### Title 4

#### ADMINISTRATION

#### Part IX. Telecommunications

#### Chapter 5. Approval of Non-State Entity Use of State Telecommunications Services

#### §503. Approval Criteria

When one of the following criteria is met and upon approval of the Office of Telecommunications Management, non-state entities may use state telecommunications services.

A. ...

B. The non-state entities shall be either:

1. - 4. ...

5. private educational institutions in the state of Louisiana with classes from kindergarten through twelfth grade, and colleges and universities, when requesting access to the LaNet Wide Area Network for educational and/or research purposes.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140, 141, 143, R.S. 1751-1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 6:722 (December 1980), re-promulgated LR 10:80 (February 1984), LR 17:267 (March 1991), amended LR 18:610 (June 1992), LR 18:

Interested persons may direct written inquiries until 5 p.m., November 8, 1992 to Rhonda Brown, Education Manager, Office of Telecommunications Management, Box 94280, Baton Rouge, LA 70804-9280, (504) 342-7725 (LINC 421-7725).

Joseph A. Lanier  
Director

#### Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Telecommunications

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The implementation cost is the same as to state agencies; however, all implementation cost will be fully recovered through monthly billing.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The non-state entities will be charged the same as state agencies. The revenues collected will cover the cost of the service.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There is no direct economic effect on any person or non-governmental group.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition or employment is expected.

Joseph A. Lanier  
Director

John R. Rombach  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Office of the Governor  
Office of Elderly Affairs**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Governor's Office of Elderly Affairs (GOEA) intends to amend the GOEA Policy Manual, effective December 20, 1992. The purpose of this proposed rule is to establish standards for arrangements that area agencies on aging and/or Title III subcontractors may have with private entities to provide services to a business firm on behalf of its older employees, retirees, or employees who have caregiver responsibilities for elderly relatives; and/or one or more components of case management as defined herein.

**Title 4**

**ADMINISTRATION**

**Part VII. Governor's Office of Elderly Affairs**

**Chapter 11. Elderly Affairs**

**Subchapter B. Area Agency on Aging**

**§1127. Area Agency Responsibilities**

A. - B. ...

C. Eldercare/Case Management

Area Agencies may provide eldercare and/or one or more component of case management, as specified in LAC 4:VII.1237.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 306(a) and 45 CFR 1321.61(a)(4).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 17:600 (June 1991), LR 18:

**§1133. Area Plan for Programs on Aging**

A. - B. ...

C. Content of the Area Plan

1. The area plan will specify:

a. conditions of older persons in the planning and service area;

b. current system of service delivery based on the most recently available data;

c. an assessment of current capacity in the planning and service area to perform service systems development activities;

d. the organization of the area agency;

e. composition and functions of the area agency advisory council;

f. goals and objectives for the conduct of the area agency functions described in this Section, and for development and delivery of services for the aging. Service delivery objectives include, for each service, the projected numbers of persons to be served and standard units of service to be provided;

g. financial plan, showing projected expenditures by source (federal, state, and local) and service; and

h. standard assurances for complying with applicable laws, regulations, and other directives.

2. Proposals to provide eldercare and/or one or more components of case management for an insurance company must be submitted to the state agency for approval as part of the area plan or amendment, in accordance with LAC 4:VII.1237(D).

D. - F. ...

AUTHORITY NOTE: Promulgated in accordance with OAA Section 306(a)(2) and Section 307(a)(5).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 17:57 (January 1991), LR 18:

**Subchapter D. Service Provider Responsibilities**

**§1209. Eldercare/Case Management**

Title III subcontractors may provide eldercare and/or one or more component of case management as specified in LAC 4:VII.1237.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 306(a)(2) and Section 307(a)(5).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 18:

**Subchapter E. Uniform Service Requirements**

**§1237. Eldercare**

A. Scope

1. This Section governs area agencies on aging and Title III subcontractors under area plans that enter into contracts to provide eldercare as defined in Subsection B of this Section.

2. This Section also applies to arrangements that area agencies and Title III subcontractors may have with private entities to provide case management as defined in Subsection B of this Section.

B. Definitions

1. *Eldercare* — a service provided to a business firm on behalf of its older employees, retirees, or employees who have caregiver responsibilities for elderly relatives. The service most often includes a form of enhanced information and referral; but may extend to other types of services and/or programs, as determined by the employer. Typically, eldercare benefits are provided through a contract under which the business firm, or an intermediary, makes third party payments to an area agency on aging (or other agency or organization) to provide directly or to arrange for the provision of specified services and/or programs to a defined group of corporate employees on behalf of their older relatives.

2. *Business firm* — a private entity.

3. *Case Management* — a service with several components, which collectively make up case management. The components of case management include a combination of some or all of the following: Access/Intake/Screening; Assessment; Care Planning; Care Plan Implementation/Coordi-

nation; and Continued Care Management.

4. *Access/Intake/Screening* — marketing and initial contact with the area agencies from the individual and/or the company, usually an insurance company, requesting case management services.

5. *Assessment* — a face-to-face evaluation utilizing a standardized assessment tool to determine the individual's needs and resources.

a. The assessment provides some or all of the following information regarding the individual:

- i. functional level;
- ii. cognitive status;
- iii. health status;
- iv. current living arrangement; and
- v. use of formal and informal support systems.

b. There are three possible assessments that can be conducted for an insurance company:

- i. an underwriting assessment;
- ii. a benefits assessment; and
- iii. a care plan assessment.

6. *Care Planning* — determining with the individual, the appropriate and available mix of formal and informal services and resources to meet the individual's long term care needs, and developing a plan of care to meet those needs.

7. *Care Plan Implementation/Coordination* — assessing and coordinating the appropriate services (services delivery) and assisting the individual to make the necessary financial arrangements to implement an individual's plan of care.

8. *Continued Care Management* — the monitoring, re-assessment, and discharge or termination component of case management. More specifically this includes:

a. monitoring the service delivery, quality of care provided, and status of the individual;

b. reassessing the individual's cognitive status, health status, and functional level as they relate to the care provided and making appropriate changes as needed; and

c. closing the case once an individual no longer requires case management due to depletion of insurance coverage; death; or improved health, whereby case management services are no longer required.

#### C. Services Authorized

##### 1. Eldercare

a. Area agencies may provide the following services under eldercare contracts only under an approved area plan:

i. services directly related to area agency on aging administrative functions, as defined in §1143 (B)(1) of this manual;

ii. services the state agency has authorized the area agency to provide directly during the contract period.

b. Title III subcontractors may provide any service in the GOEA Taxonomy under eldercare contracts, subject to applicable licensure requirements only under an approved area plan.

##### 2. Case Management

Area agencies and/or Title III subcontractors may provide one or more components of case management, as defined in Paragraphs three through eight of Subsection B of this Section, only under an approved area plan.

##### D. Proposals

Proposals to provide eldercare and/or one or more components of case management for an insurance company must be submitted to the state agency for approval as part of

an area plan or amendment, and shall include the following information:

a. specify whether the area agency intends to provide the service(s) directly or whether a Title III subcontractor under the area plan intends to provide the service(s);

b. identify each business firm with whom the area agency or subcontractor proposes to contract;

c. specify what service is to be provided under each contract; and

d. provide the following assurances.

i. Services shall not conflict with, or prevent the area agency from accomplishing its mission under the Older Americans Act and Title III regulations.

ii. The area agency shall continue to fully and effectively comply with its responsibilities to target its Title III resources and services to older persons in the greatest economic or social need, with particular attention to low income minority older persons.

iii. The area agency or Title III subcontractors under an area plan shall not enter into any agreement with a business firm which would restrict the area agency from providing services to older persons and those who support them, or would prohibit a service provider from entering into agreements with other corporations to provide similar services or benefits.

iv. The business firm shall pay the full cost associated with the services being provided under the contract. This includes any start-up costs, administrative costs, overhead costs or any other costs that are involved in providing the service(s).

v. Revenues and expenditures under the contract shall be accounted for separately from Older Americans Act funds and other public funds.

vi. Each area agency on aging shall disclose to the state agency on aging the provisions and terms of all proposed contracts to provide eldercare and/or case management as defined in Subsection B of this Section, as required by the state agency.

2. The information shall be provided in the format prescribed by the state agency to ensure proper review.

#### F. Eldercare or Private Case Management Contracts

1. Eldercare or private case management contracts may be made directly with a business firm or through an intermediary organization acting on behalf of a business firm.

2. The area agency shall submit proposed contracts with a business firm or an intermediary of a business firm for corporate eldercare service(s) to the state agency for review and comment.

3. Title III subcontractors shall submit proposed contracts with a business firm or an intermediary of a business firm for an eldercare service(s) to the area agency for review and comment.

4. To ensure compliance with the provisions of this Section, the state or area agencies shall review and comment on proposed eldercare and case management contracts, as appropriate, taking into consideration the following factors:

i. the dollar amount of each contractual arrangement;

ii. the number of eldercare or case management participants (including employed caregivers) to be served; and

iii. the percentage of area agency staff time allocated to this effort.

G. Restrictions

1. This restriction applies to the referrals that might be made by the staff of an information and referral provider or a case manager under an eldercare contract.

2. Older persons referred to an Older Americans Act funded service provider under an eldercare contract shall not be given any special consideration by service providers.

3. Older persons referred for services funded under the Older Americans Act shall be subject to the same criteria that would apply to any other potential recipient of service.

4. An exception to the restriction in Paragraph two, above, can be made in those instances where the business firm, under contract, has agreed in the contract to pay the full cost of any service(s) rendered by the area agency on aging or provided by a service provider under an area plan.

H. Monitoring and Assessment Responsibilities

1. The state agency shall monitor and assess the area agency agencies for compliance with all of the provisions of this Section.

2. The area agency shall monitor and assess the Title III subcontractors for compliance with all of the provisions of this Section.

I. Failure to Comply

Substantial failure of an area agency on aging or Title III subcontractor to fulfill all of the provisions of this Section shall be grounds for termination of the Title III contract or subcontract.

A public hearing on this proposed rule will be held on Tuesday, October 27, 1992, in the GOEA Conference Room, 4550 North Boulevard, Second Floor, Baton Rouge, LA 70805, at 1:30 p.m. All interested parties will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing.

Interested persons may submit written comments to the following address: Betty Johnson, Planning/Development Manager, Governor's Office of Elderly Affairs, Box 80374, Baton Rouge, LA 70898-0374. She is the person responsible for responding to inquiries concerning this proposed rule. Comments will be accepted until 5 p.m. November 2, 1992.

James R. Fontenot  
Director

Fiscal and Economic Impact Statement  
For Administrative Rules

Rule Title: Corporate Eldercare/Case Management

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will not result in increased costs or savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will not affect the federal and state funds available to the area agencies to provide Older Americans Act services. Other revenues may be generated for additional services through contractual arrangements with private entities. However, it is impossible to predict what the exact amount will be.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

This rule will affect the area agencies on aging and

their Title III subcontractors; private entities with whom they may enter into contractual or other arrangements to provide corporate eldercare or case management as defined herein; and the older individuals who ultimately are served. Such services may be provided only under an approved area plan or amendment. The fiscal impact is not known at this time.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Many family members involved in caring for elderly relatives work every day and have many other responsibilities, as well. Many employers are making an effort to respond to the need for eldercare and case management services as a special benefit to employees. This proposed rule is intended to provide guidance concerning how the aging services network should work with the corporate sector to assist in this very worthwhile effort. Area agencies and their Title III subcontractors are required to make such arrangements equally accessible to all employers.

James R. Fontenot  
Executive Director

John R. Rombach  
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Health and Hospitals  
Board of Nursing

Disciplinary Proceedings

Notice is hereby given, in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Nursing (board), pursuant to the authority vested in the board by R.S. 37:918 K, intends to amend rules prescribing practice and reporting requirements for registered nurses to protect the public from the risk of transmission of hepatitis B virus (HBV) and human immunodeficiency virus (HIV) as follows:

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLVII. Nurses

Subpart 2. Registered Nurses

Chapter 33. General Rules

Subchapter C. Disciplinary Proceedings

§3331. Definition of Terms

\* \* \*

H. *Other causes*—includes, but is not limited to:

\* \* \*

11. Intentionally committing any act that adversely affects the physical or psychosocial welfare of the patient, including but not limited to failing to practice in accord with the Federal Centers for Disease Control recommendations for preventing transmission of human immunodeficiency virus (HIV) and hepatitis B virus (HBV) when one is infected with or a carrier of HIV or HBV.

\* \* \*

15. Failing to report to the board one's status when one is known to be a carrier of the hepatitis B virus or human immunodeficiency virus in accord with Act 1009 of the 1991 Louisiana Legislature.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:918 K.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 7:74 (March 1981), amended by the Department of Health and Hospitals, LR 18:

Written comments on the proposed rules may be submitted until 4:30 p.m., November 2, 1992, to Barbara L. Morvant, Executive Director, Louisiana State Board of Nursing, 150 Baronne Street, Suite 912, New Orleans, LA 70112.

A public hearing will be held at 10 a.m., October 30, 1992, at the New Orleans Airport Hilton and Conference Center, 901 Airline Highway, Kenner, LA.

Barbara Morvant, RN, MN  
Executive Director

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: Disciplinary Proceedings**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no anticipated implementation costs or savings to the Louisiana State Board of Nursing.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no anticipated effect on revenue collections by the Louisiana State Board of Nursing or any other state or local government.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)**

There is no anticipated material effect on costs or workload of the registered nurse who is not HIV nor HBV seropositive and who already follow the guidelines of the Federal Centers for Disease Control. Failure to report one's seropositive status for HIV or HBV in accord with Act 1009 of 1991, or failure to practice in accord with the proposed LAC 46:XLVII.3914 may result in suspension of license or other disciplinary measure.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

No material impact on competition or employment is anticipated if the registered nurse practices in accord with any restriction necessary to protect the health and welfare of the patients. Failure to appropriately report one's HIV or HBV seropositive status or failure to abide by any restriction which may be necessary to protect the health and welfare of the patients may result in disciplinary action against such licensee.

Barbara L. Morvant  
Executive Director

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Nursing**

**Prevention of Disease Transmission**

Notice is hereby given, in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Nursing (board), pursuant to the authority vested in the board by R.S. 37:918 K, intends to adopt rules prescribing practice and reporting requirements for registered nurses to protect the public from the risk of transmission of hepatitis B virus (HBV) and human immunodeficiency virus (HIV), as follows:

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL STANDARDS**

**Part XLVII. Nurses**

**Subpart 2. Registered Nurses**

**Chapter 39. Legal Standards of Nursing Practice**

**§3914. Standard Number 7: Prevention of Disease Transmission**

A. All registered nurses shall adhere to universal precautions for the prevention of transmission of infectious diseases as recommended by the federal centers for disease control for infection-control programs. These precautions include the appropriate use of hand washing, protective barriers, and care in the use and disposal of needles and other sharp instruments.

1. Registered nurses who have exudative lesions or weeping dermatitis shall refrain from all direct patient care and from handling patient-care equipment and devices used in performing invasive procedures until the condition resolves.

2. Registered nurses shall also comply with employing agency's current guidelines for disinfection and sterilization of reusable devices used in invasive procedures.

B. Registered nurses who know they are HIV or HBV carriers shall report their status to the Board of Nursing within 30 days from the date of the performance of the diagnostic test. They shall give notice of such diagnosis to the board on a reporting form supplied by the board which shall be mailed to the Nursing Consultant for Compliance, marked "personal and confidential," by registered or certified mail. This report shall be confidential as provided in Act 1009 of the 1991 Louisiana Legislature.

C. Registered nurses who are known to be infected with HIV or HBV who perform invasive procedures not identified as exposure-prone shall practice standard surgical or dental technique and comply with universal precautions and current standards for sterilization/disinfection.

For the purpose of this Subsection, invasive procedures shall mean any procedure involving manual or instrumental contact with, or entry into, any blood, body fluids, cavity, internal organ, subcutaneous tissue, mucous membrane or percutaneous wound of the human body.

D. Registered nurses who perform or participate in exposure-prone procedures shall, in the performance of or participation in any such procedure or function, be familiar with, observe and rigorously adhere to both general infection and control practices and universal blood and body-fluid precautions as then recommended by the Federal Centers for Disease Control to minimize the risk of HBV or HIV from a practitioner to a patient, from a patient to a practitioner, or

from a patient to a patient.

1. Registered nurses who perform or participate in exposure-prone procedures and who do not have serologic evidence of immunity to HBV from previous infection, and have not been vaccinated against HBV, shall obtain their HBsAg status and, if that is positive, shall also obtain their HbeAg status.

2. For the purpose of this Subsection, exposure-prone procedures shall mean an invasive procedure in which there is risk of percutaneous injury to the practitioner by virtue of digital palpations of a needle tip or other sharp instrument in a body cavity or the simultaneous presence of the practitioner's fingers and a needle or other sharp instrument or object in a poorly visualized or highly confined anatomic site, or any other invasive procedure in which there is a significant risk of contact between the blood or body fluids of the practitioner and the blood or body fluids of the patient.

E. Registered nurses who are infected with HIV or HBV (and are HBeAg positive) shall not perform exposure-prone procedures unless they have sought counsel from an expert review panel and been advised under what circumstances, if any, they may continue to perform these procedures.

An expert review panel shall be constituted of at least five members representing a balanced perspective, such as one or more of each of the following: the licensee's personal physician, a member of the agency's infection control committee (if agency has such committee), a registered nurse who is an infectious disease specialist with expertise in the procedures performed by the infected licensee, and a state or local public health official.

F. Patients of the seropositive registered nurse shall be notified of the registered nurse's seropositivity before they undergo exposure-prone invasive procedures in which the nurse will participate or perform. If the nurse will perform the procedure, an informed consent shall be obtained from the patient.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:918(K).

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 18:

Written comments on the proposed rules may be submitted until 4:30 p.m., November 2, 1992, to Barbara L. Morvant, Executive Director, Louisiana State Board of Nursing, 150 Baronne Street, Suite 912, New Orleans, LA 70112.

A public hearing will be held at 10 a.m., October 30, 1992, at the New Orleans Airport Hilton and Conference Center, 901 Airline Highway, Kenner, LA.

Barbara L. Morvant, R.N., M.N.  
Executive Director

**Fiscal and Economic Impact Statement  
For Administrative Rules**

**Rule Title: Prevention of Disease Transmission**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There is no anticipated implementation costs or savings to the Louisiana State Board of Nursing.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated effect on revenue collections by the Louisiana State Board of Nursing or any other state or local government.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There is no anticipated material effect on costs or workload of the registered nurse who is not HIV nor HBV seropositive and who already follow the guidelines of the Federal Centers for Disease Control. Registered nurses who are seropositive and who perform or participate in exposure-prone invasive procedures may experience a limitation on their practice which is necessary for the protection of the patients.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No material impact on competition or employment is anticipated. However, the practice of a relatively small number of registered nurses who are seropositive and who perform or participate in exposure-prone invasive procedures may be restricted if this is necessary to protect the health and welfare of the patients.

Barbara L. Morvant, R.N., M.N.     David W. Hood  
Executive Director                     Senior Fiscal Analyst

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Office of the Secretary  
Department of Social Services  
Office of the Secretary**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of the Secretary, is proposing to amend regulations pursuant to the cash subsidy payments under the program entitled Community and Family Support System.

**Title 48**

**PUBLIC HEALTH - GENERAL**

**Part I. General Administration**

**Subpart 7. Community and Family Support System**

**Chapter 1. Community and Family Support System Cash Subsidy**

**§103. Definitions**

\* \* \*

F. *Individualized Education Program (IEP)* — a written educational plan for each child with a disability which is developed in a meeting by a representative of the local educational agency, the teacher, the parents or guardian of such child, and that child, whenever appropriate.

G. *Individualized Family Services Plan (IFSP)* — a written plan for providing early intervention services for Childnet eligible children and their families.

H. *Interagency Service Coordination (ISC) Process* — the interagency process in cooperation with the Child and Adolescent Service System Program (CASSP) which involves children and their families in a multidisciplinary case review to generate a family service plan which assures appropriate

and coordinated care for those children with severe emotional and behavioral impairments who are not adequately served by the routing services of a single agency and therefore require extensive interagency collaboration.

\* \* \*

K. *Licensed mental health professional* — a person credentialed to provide mental health services by a professional board established and approved by the State of Louisiana, including those boards which examine physicians (psychiatrists), psychologists, social workers, counselors, nurse practitioners, etc.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, and by the Department of Social Services, Office of the Secretary, LR 18:185 (February, 1992), amended LR 18:

**§107. Application Procedures and Waiting List for Cash Subsidy**

\* \* \*

E. To be deemed complete, applications must be signed by the parent and the following supporting documents must accompany the application:

\* \* \*

4. The following documentation will be accepted to complete the application for Behavior Disorder/Emotional Disturbance, even if in the absence of a 1508 evaluation identifying this as an exceptionality: A treatment plan from a licensed community mental health center; or, evidence of present participation of child/family in an Interagency Service Coordination (ISC) process; or, an evaluation report from a private licensed mental health professional and indication that the criteria for Emotional/Behavioral Impairment (EBI) in Department of Education Bulletin 1508 have been met.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, and by the Department of Social Services, Office of the Secretary, LR 18:185 (February, 1992), amended LR 18:

**§115. Cash Subsidy Payment Procedures**

The cash subsidy payment is provided for the purpose of assisting families in meeting those needs and extraordinary expenses that enable their child to remain at home and to keep the family intact. Families will sign an annual statement stating that the subsidy funds are used for the special needs of the family, but will not be required to document expenses.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, and by the Department of Social Services, Office of the Secretary, LR 18:185 (February, 1992), amended LR 18:

Interested persons may submit written comments on this proposed rule to Ms. Sue Bowman, Assistant Secretary, Office of Mental Retardation/Developmental Disabilities, Box 3317, Bin 21, Baton Rouge, LA 70821-3317. She is the person responsible for responding to inquiries regarding this

proposed rule.

J. Christopher Pilley  
Secretary  
Department of Health  
and Hospitals

Gloria Bryant-Banks  
Secretary  
Department of Social Services

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: Community and Family Support Cash  
Subsidy**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There are no implementation costs anticipated from the adoption of the amendments.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
The proposed amendments will have no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)  
There will be no costs and/or economic benefits directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There is no effect projected on competition and employment from implementation of these amendments.

J. Christopher Pilley  
Secretary

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Office of The Secretary**

**Informed Consent**

As authorized by R.S. 40:1299.40E, as enacted by Act 1093 of 1990 and later amended by Act 962 of 1991, the Department of Health and Hospitals, Louisiana Medical Disclosure Panel, is proposing to adopt rules which require what risks must be disclosed under the Doctrine of Informed Consent to patients undergoing medical treatments or procedures and the Consent Form to be signed by the patient and physician before undergoing any such treatment or procedure.

A public hearing on the proposed rules will be held on October 26, 1992, in the First Floor Auditorium, Department of Transportation and Development Building, 1201 Capitol Access Road, Baton Rouge, LA, 70802, beginning at 2 p.m. Please submit any written comments to Donald J. Palmisano, M.D., Chairman, Louisiana Medical Disclosure Panel, Department of Health and Hospitals, Bureau of Legal



Services, Box 3836, Baton Rouge, LA 70802.

A copy (full text) of these proposed rules may be obtained from Donald J. Palmisano, M.D., at the above address or from the Office of the State Register, 1051 North Third Street, Baton Rouge, LA (504)342-5015.

J. Christopher Pilley  
Secretary

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: Informed Consent**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS)  
TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There are no implementation costs anticipated from the adoption of these rules.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF  
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rules will have no effect on revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS  
TO DIRECTLY AFFECTED PERSONS OR NON-  
GOVERNMENTAL GROUPS (Summary)**

There will be no costs and/or economic benefits to directly affected persons or non-governmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND  
EMPLOYMENT (Summary)**

There is no effect projected on competition and employment from implementation of these rules.

J. Christopher Pilley  
Secretary

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Office of the Secretary  
Bureau of Health Services Financing**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, hereby gives notice of its intent to adopt the following rule in the Title XIX Medicaid Program.

The coverage of chiropractors' services is optional under the State Medicaid Plan. Chiropractor services were reimbursed under the State's Medicaid Plan from April 1, 1976 through July 31, 1985, when the program was withdrawn due to lack of state funding capability.

Chiropractic is recognized as a therapy which includes treatment of individuals with chronic or acute spinal problems who may avoid hospitalization with chiropractic services. Chiropractic appears to be cost effective. A study of Florida's Workmen's Compensation system over a two-year period indicated that patients who utilized chiropractic services for initial treatment incurred 50 percent less in treatment costs and 50 percent less in time lost from work than patients who consulted a medical doctor. There are approximately 569,000 individuals eligible for medicaid services in Louisi-

ana, a population which currently does not have access to chiropractic services. Therefore, the state proposes to offer chiropractic services in accordance with the requirements and limitations set forth in this proposed rule and the State Medicaid Plan.

**PROPOSED RULE**

Effective January 1, 1993, Medicaid of Louisiana will reimburse chiropractors for their services under the following conditions:

1. Chiropractors' services consists of treatment by means of manual manipulation of the spine that the chiropractor is legally authorized by the state to perform.

2. Payment will be made to chiropractors who are licensed by the state to practice. In addition, chiropractors must be enrolled in the Medicaid Program as a medicaid provider.

3. The State Plan for a limitation of up to 12 out-patient physician visits per calendar year with provision for extension if medically approved. This limitation on office visits applies to other licensed practitioners such as dentists, optometrists, and podiatrists, and will include chiropractors. For diagnostic radiology, chiropractors may be reimbursed up to a maximum of \$225 per calendar year per recipient. Chiropractic treatment will be limited to 25 billable treatment encounters per calendar year per recipient with a maximum of three billable services at each encounter. Provision is made for extension of additional encounters up to a maximum of 35 based on medical review by the fiscal intermediary which determines that medical necessity warrants the additional services. Early and Periodic Screening Diagnosis and Treatment (EPSDT) recipients are excluded from the service limitations.

4. Reimbursement will be in accordance with a maximum fee schedule for each chiropractic service rendered to Title XIX eligible individuals.

Interested persons may submit written comments to the following address: John Futrell, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule will be held on Tuesday, October 27, 1992 in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at the public hearing.

J. Christopher Pilley  
Secretary

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: Implementation of Optional Chiropractor's  
Services Under Title XIX Medicaid**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Implementation of this proposed rule is projected to increase state expenditures by \$1,178,209 in SFY 1992-93; \$2,092,281 in SFY 1993-94; and \$2,153,031 in 1994-95.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF  
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Implementation of this proposed rule is projected to

increase federal revenue by \$3,377,898 in SFY 1992-93; \$5,998,519 in SFY 1993-94; and \$6,172,687 in SFY 1994-95.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Chiropractors who provide services to Medicaid recipients will be directly impacted as will Title XIX eligible recipients who receive the services. Total expenditures are \$4,556,107 in SFY 92-93; \$8,090,800 in SFY 93-94; and \$8,325,718 in SFY 94-95.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule will have no known impact on competition or employment.

John Futrell  
Director

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**  
**Department of Insurance**  
**Commissioner of Insurance**

**Companies in Hazardous Financial Condition**

Under the authority of R.S. 22:2(H), the Department of Insurance gives notice that the following proposed regulation is scheduled to become effective December 20, 1992. This intended action complies with the statutory law administered by the Department of Insurance.

**REGULATION 43**

**Standards and Authority of the Commissioner of Insurance Regarding Companies Deemed to be in Hazardous Financial Condition**

**§1. Authority**

This regulation is adopted and promulgated by the Louisiana Department of Insurance pursuant to R.S. 22:2(H).

**§2. Purpose**

The purpose of this regulation is to set forth the standards which the Commissioner of Insurance (the "commissioner") may use for identifying insurers found to be in such condition as to render the continuance of their business hazardous to the public or to holders of their policies or certificates of insurance.

This regulation shall not be interpreted to limit the powers granted the commissioner by any laws or parts of laws of the state of Louisiana, nor shall this regulation be interpreted to supersede any laws or parts of laws of the state of Louisiana.

**§3. Definitions**

As used in this regulation, the following terms shall have the respective meaning hereinafter set forth:

1. **Control** — as defined in R.S. 22:1002(3).
2. **Person** — as defined in R.S. 22:1002(7).

**§4. Standards**

The following standards, either singly or a combination of two or more, may be considered by the commissioner to determine whether the continued operation of any insurer transacting an insurance business in this state might be deemed to be hazardous to the policyholders, creditors or the

general public. The commissioner may consider:

1. adverse findings reported in financial condition and market conduct examination reports;
2. the National Association of Insurance Commissioners Insurance Regulatory Information System and its related reports;

3. the ratios of commission expense, general insurance expense, policy benefits and reserve increases as to annual premium and net investment income which could lead to an impairment of capital and surplus;

4. the insurer's asset portfolio when viewed in light of current economic conditions is not of sufficient value, liquidity, or diversity to assure the company's ability to meet its outstanding obligations as they mature;

5. the ability of an assuming reinsurer to perform and whether the insurer's reinsurance program provides sufficient protection for the company's remaining surplus after taking into account the insurer's cash flow and the classes of business written as well as the financial condition of the assuming reinsurer;

6. the insurer's operating loss in the last 12-month period or any shorter period of time, including but not limited to net capital gain or loss, change in non-admitted assets, and cash dividends paid to shareholders, is greater than 50 percent of such insurer's remaining surplus as regards policyholders in excess of the minimum required;

7. whether any affiliate, subsidiary or reinsurer is insolvent, threatened with insolvency, or delinquent in payment of its monetary or other obligations;

8. contingent liabilities, pledges or guarantees which either individually or collectively involve a total amount which in the opinion of the commissioner may affect the solvency of the insurer;

9. whether any person having control of an insurer is delinquent in the transmitting to, or payment of, net premiums to such insurer;

10. the age and collectibility of receivables;

11. whether the management of an insurer, including officers, directors, or any other person who directly or indirectly controls the operation of such insurer, fails to possess and demonstrate the competence, fitness and reputation deemed necessary to serve the insurer in such position;

12. whether management of an insurer has failed to respond to inquiries relative to the condition of the insurer or has furnished false and misleading information concerning an inquiry;

13. whether management of an insurer either has filed any false or misleading sworn financial statement, or has released any false or misleading financial statement to lending institutions or to the general public, or has made a false or misleading entry, or has omitted an entry of material amount in the books of the insurer;

14. whether the insurer has grown so rapidly and to such an extent that it lacks adequate financial and administrative capacity to meet its obligations in a timely manner; or

15. whether the insurer has experienced or will experience in the foreseeable future cash flow and/or liquidity problems.

**§5. Commissioner's Authority**

A. For the purposes of making a determination of an insurer's financial condition under this regulation, the

commissioner may:

1. disregard any credit or amount receivable resulting from transactions with a reinsurer which is insolvent, impaired or otherwise subject to a delinquency proceeding;
2. make appropriate adjustments to asset values attributable to investments in or transactions with parents, subsidiaries, or affiliates;
3. refuse to recognize the stated value of accounts receivable if the ability to collect receivables is highly speculative in view of the age of the account or the financial condition of the debtor; or
4. increase the insurer's liability in an amount equal to any contingent liability, pledge, or guarantee not otherwise included if there is a substantial risk that the insurer will be called upon to meet the obligation undertaken within the next 12-month period.

B. If the commissioner determines that the continued operation of the insurer licensed to transact business in this state may be hazardous to the policyholders or the general public, then the commissioner may, upon his determination, issue an order requiring the insurer to:

1. reduce the total amount of present and potential liability for policy benefits by reinsurance;
2. reduce, suspend or limit the volume of business being accepted or renewed;
3. reduce general insurance and commission expenses by specified methods;
4. increase the insurer's capital and surplus;
5. suspend or limit the declaration and payment of dividends by an insurer to its stockholders or to its policyholders;
6. file reports in a form acceptable to the commissioner concerning the market value of an insurer's assets;
7. limit or withdraw from certain investments or discontinue certain investment practices to the extent the commissioner deems necessary;
8. document the adequacy of premium rates in relation to the risks insured; or
9. file, in addition to regular annual statements, interim financial reports on the form adopted by the National Association of Insurance Commissioners or on such format as promulgated by the commissioner.

If the insurer is a foreign insurer the commissioner's order may be limited to the extent provided by statute.

C. Within 30 days of receipt of notification of the order of the commissioner to the insurer made pursuant to Subsection B of this Section, the insurer may make written demand for a hearing pursuant to the provisions of Part XXIX of Chapter 1 of Title 22 of the Louisiana Revised Statutes of 1950; provided, however, that such a hearing will be held privately, unless the insurer requests a public hearing, in which case the hearing shall be public.

A public hearing on this proposed regulation will be held on October 28, 1992 in the Plaza Hearing Room of the Insurance Building, located at 950 North Fifth Street, Baton Rouge, LA at 10 a.m. All interested persons will be afforded an opportunity to make comments.

Interested persons may obtain a copy of this proposed regulation from, and may submit oral or written comments to Barry W. Karns, Deputy General Counsel, Department of Insurance, Box 94214, Baton Rouge, LA 70804-9214, telephone (504) 342-5900. Comments will be accepted

through the close of business at 4:30 p.m., October 28, 1992.

James H. "Jim" Brown  
Commissioner of Insurance

**Fiscal and Economic Impact Statement  
For Administrative Rules**

**Rule Title: Regulation 43 - Standards Regarding  
Companies Deemed to be in Hazardous Financial Condition**

- I. **ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**  
It is not anticipated that the Department of Insurance will incur any costs or savings as a result of implementing this regulation. The regulation does not impose any new duties on the department that would require additional funding.
- II. **ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**  
Adoption of this regulation will not have any effect on revenue collections by the state or local governmental units. There are no fees, fines or other revenue generating activities imposed.
- III. **ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)**  
It is not anticipated that this regulation will impose any additional costs on insurance companies.
- IV. **ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**  
It is not anticipated that there will be any effect on either competition or employment resulting from the adoption of this regulation.

Brenda St. Romain  
Fiscal Officer

John R. Rombach  
Legislative Fiscal Officer

**NOTICE OF INTENT  
Department of Insurance  
Commissioner of Insurance**

**Group Self-Insurance Funds**

Under the authority of Louisiana Revised Statutes Title 23, Section 1193, the Department of Insurance gives notice that the following proposed regulation is to become effective December 20, 1992. This intended action complies with the statutory law administered by the Department of Insurance.

**REGULATION 42  
GROUP SELF-INSURANCE FUNDS**

**§1. This regulation is adopted and promulgated by the Commissioner of Insurance pursuant to authority granted by Louisiana Revised Statutes Title 23, Section 1193.**

**§2. Definitions**

When used in this regulation, the following words or terms

shall have the meaning as described in this Section.

(1) *Administrator* — an individual, partnership or corporation engaged by a group self-insurance fund to carry out the policies of the trustees of the fund and to provide day-to-day management of the fund.

(2) *Aggregate Losses* — the amount of all claims including reserves for loss development and losses incurred but not reported which exceeds the loss fund.

(3) *Contingent Liability* — the amount that a self-insurance fund may be obligated to pay in excess of a given fund year's normal premium collected or on hand.

(4) *Fiscal Agent* — an individual, partnership or corporation engaged by a self-insurance fund to carry out the fiscal policies of the fund, invest and disburse assets and oversee the financial matters of the fund. An administrator may be a fiscal agent.

(5) *Gross Premium* — premium determined by multiplying the payroll (segregated into the proper workers' compensation job classifications) times the manual premium rates approved by the commissioner.

(6) *Incurred but not Reported Reserves* — a reserve established which estimates the incurred loss of claims whose existence is unknown by the fund or claims which have been reported but not recorded on the books of the fund.

(7) *Loss Development* — the change in incurred loss from one point in time to another.

(8) *Loss Development Reserve* — any amount needed in a given fund year in addition to current loss reserves to fund future loss development.

(9) *Loss Fund* — the retention under the terms of an aggregate excess contract, or if no aggregate excess is purchased, the amount remaining from normal premium in each fund year after all necessary expenses are paid.

(10) *Normal Premium* — standard premium less allowed discount.

(11) *Qualified Actuary* — Either 1) an associate or fellow of the Casualty Actuarial Society or 2) a member of the American Academy of Actuaries who demonstrates knowledge of workers compensation insurance.

(12) *Group Self-insurance Fund or Fund* — employers who enter into agreements to pool their workers compensation liabilities in accordance with Louisiana Revised Statutes Title 23, §§1191-1193.

(13) *Standard Premium* — gross premium plus or minus applicable experience debits or credits.

(14) *Surplus* — assets of a fund in excess of loss reserves, actual and contingent liabilities and loss development reserves in all fund years.

### §3. Application to Create a Group Self-Insurance Fund

A. All applications to create a group self-insurance fund shall meet the requirements of R.S. 23:1191-1193, any other applicable laws of the state of Louisiana, and this regulation.

B. Applications shall be made in writing on a form acceptable to the commissioner.

C. Applications shall be submitted to the Department of Insurance at least 60 days prior to the effective date for establishment of a fund. Any application submitted with less than 60 days remaining before the desired effective date or which does not contain answers to all questions or which is not notarized may be returned without review by the commissioner.

D. All applications shall be accompanied by:

(1) a properly completed indemnity agreement in a form acceptable to the commissioner, pursuant to §7 of this regulation;

(2) securities or a Self-Insurers Surety Bond on a form and properly executed by a surety acceptable to the commissioner, pursuant to Louisiana Revised Statutes Title 23, §1192(A)(2) and this regulation;

(3) copies of acceptable excess insurance policies, pursuant to Louisiana Revised Statutes Title 23, §1192(A)(3) and this regulation;

(4) a fidelity bond covering the service company, pursuant to Louisiana Revised Statutes Title 23, §1192(A)(7);

(5) a certification from a designated depository attesting to the amount of monies on hand;

(6) copies of the fund bylaws or trust agreement;

(7) individual application of each member of the group applying for membership in the fund on the effective date of the fund;

(8) proof that the initial members of the fund have the combined net worth and membership requirements as specified in Louisiana Revised Statutes Title 23, §1191 and this regulation;

(9) proof that the fund shall have an annual gross premium as specified in Louisiana Revised Statutes Title 23, §1192(A)(1);

(10) the current financial statement of any casualty insurance company writing excess coverage for the fund, which meets the requirements of Louisiana Revised Statutes Title 23, §1192(A)(6);

(11) the name of the attorney representing the fund and the name of the certified public accountant who will be submitting the certified financial statement;

(12) a completed estimated breakdown of policy year expenses on a form acceptable to the commissioner;

(13) the address in this state where the books and records of the group will be maintained at all times;

(14) proof of payment to the group self-insurance fund by each member of not less than 25 percent of that member's first year estimated annual net premium;

(15) a pro forma financial statement, pursuant to Louisiana Revised Statutes Title 23, §1192(A)(8) and §5(A) hereof.

E. Upon receipt of the application and other required materials, the commissioner will investigate the application and will request any additional information which is required in a letter to the applicant.

F. Failure to meet any of the criteria or provide needed information shall be grounds for denial of the application.

G. Within 45 days of receipt of all requested information, the commissioner shall issue a decision approving or denying the application, or shall extend his time for review.

### §4. Conditions for Retaining the Self-Insurance Privilege

A. The self-insurance privilege of a fund is granted continuously until revoked.

B. All funds shall be required to submit the following documents and reports:

(1) annual financial statements certified by an independent certified public accountant pursuant to §5(B) hereof;

(2) estimated breakdown of policy year expenses pursuant to §5(D) hereof;

(3) actuarial reports as may be required by the commissioner;

(4) changes in items required to be furnished under §3(D)(1),(2),(3),(4),(6),(10),(11) and (13), within 10 days of the effective date of such change.

C. All funds shall maintain a combined net worth of their members sufficient to pay all claims.

D. Each fund shall notify the commissioner, within 10 days of receiving knowledge thereof, of any claim, whether such claim is in litigation or otherwise, against the fund which, if the claimant is successful, would create an obligation of the fund to pay more than five percent of the current balance of the loss fund.

E. The commissioner may prescribe the format and frequency of other reports which may include, but shall not be limited to, payroll audit reports, summary loss reports, and quarterly financial statements.

F. The commissioner may require periodic proof that the fund is complying with the applicable laws, rules, regulations and directives of the Department of Insurance.

G. Whenever the commissioner determines that a fund has knowingly submitted an application or other information containing false or misleading information, the commissioner may revoke the Certificate of Authority of the fund.

#### **§5. Financial and Actuarial Reports for Group Self-Insurance Funds**

A. Each fund shall submit a current financial statement, certified by an independent certified public accountant, of at least two members showing, at the inception of the fund, a combined net worth of a minimum of \$500,000, current financial statements of all other members, a combined ratio of current assets to current liabilities of more than 1 to 1, a combined working capital of an amount establishing financial strength and liquidity of the members to pay normal compensation claims promptly, and showing evidence of the financial ability of the group to meet its obligations. A certified audit or a financial statement properly certified by an officer, owner or partner for all members joining the fund after the inception date shall be submitted to the commissioner until such time as a certified annual audit report is available for the fund as a whole. In no event shall the cumulative net worth or ratio of the current assets to current liabilities of all members be less than that required in this Subsection.

B. The report of financial condition shall be due annually within six months of the close of the fiscal year of the fund, unless an extension is granted by the commissioner, on a form acceptable to the commissioner.

C. Actuarial reviews, if required, shall be made by a qualified actuary. Actuarial reports shall be due and filed at the same time as the fund's annual financial statement, except as otherwise provided by the commissioner.

D. Each fund shall file an estimated breakdown of expenses on a form acceptable to the commissioner, within 60 days after the beginning of each fiscal year.

#### **§6. Excess Insurance Requirements for Group Self-Insurance Funds**

A. All funds shall maintain specific excess insurance in the amount of at least \$2,000,000 per occurrence and an aggregate excess of at least \$2,000,000.

B. For the purposes of this Section, no loss fund shall be less than 70 percent of earned normal premium without the approval of the commissioner.

C. The maximum retention allowed for a fund's specific excess policy shall be in accordance with the following schedule unless a waiver is granted pursuant to Subsections (D), (E), (F) and (G) of this Section:

(1) for funds with a loss fund less than \$50,000,000, the maximum retention shall be three percent of the fund's loss fund, or \$250,000, whichever is greater;

(2) for funds with a loss fund greater than or equal to \$50,000,000 and less than \$100,000,000, the maximum

retention shall be 3.5 percent of the fund's loss fund;

(3) for funds with a loss fund greater than or equal to \$100,000,000, the maximum retention shall be four percent of the fund's loss fund;

(4) regardless of any maximum contained in this Subsection, no fund shall secure a retention which in the commissioner's opinion is not actuarially sound.

D. If a fund wishes to secure a specific excess policy with a retention greater than the maximum allowed by Subsection C of this Section, then the fund shall comply with the procedure described in Subsections E, F and G of this Section.

E. Funds which have been in operation at least 30 months may request permission to secure a retention higher than that authorized by Subsection C of this Subsection. A fund shall submit a feasibility study prepared by a qualified actuary which analyzes the impact on the fund of the higher retention.

F. The commissioner shall deny the use of a higher retention if he finds (1) that the higher retention will have a significant adverse effect on the financial condition of the fund, or (2) that the fund is unable to establish reserves using monies from (a) premium earned during the year the loss was incurred, or (b) investment earnings from the year in which the loss was incurred, or (c) from future investment earnings on the specific loss reserve.

G. Each fund shall provide security for aggregate losses by selecting one of the following alternatives:

(1) purchasing an acceptable aggregate excess policy,

(2) upon approval of the commissioner, post a cash security deposit in the amount of \$1,000,000 or 20 percent of annual standard premium, whichever is greater, or

(3) if the fund has been in operation at least 60 months, upon approval of the commissioner, establish an actuarially sound reserve for aggregate losses.

H. Subject to the minimum stated in Subsection A of this Section, the fund shall secure an aggregate limit of at least 20 percent of the annual standard premium of the fund for the term of the policy. The retention of the aggregate policy shall be subject to the approval of the commissioner.

I. If the option in Subsection G(2) of this Section is selected, a fund, upon approval of the commissioner, may self-insure part of its aggregate limit by posting as a cash security deposit for the amount which is self-insured.

J. If a fund receives permission to provide security for its aggregate losses by establishing an aggregate reserve, the fund shall comply with the following requirements:

(1) At least 60 days prior to the beginning of each policy year for which an aggregate reserve will be established, the fund shall submit a plan for that year. Approval of the plan by the commissioner shall be required before an aggregate reserve may be established for the next policy year.

(2) Within six months after the end of each fund year, the fund shall submit an actuarial review, by a qualified actuary, of its aggregate reserve for each fund year whose aggregate losses are guaranteed by the reserve.

(3) Along with the actuarial review, the fund shall provide financial information which sets forth the financial position of the aggregate reserve.

(4) In actuarially determining the amount of ultimate loss, the fund and its actuary may take into account current or future recoveries from any aggregate or specific excess contract, if such contract complies with this regulation.

K. The commissioner may:

(1) reject an actuarial review or financial report which does not comply with the requirements of Subsection L of this

Section. If this occurs, the commissioner may, at the expense of the fund, conduct his own actuarial or financial review, or, upon request of the fund, allow the fund to submit another actuarial or financial report subject to the commissioner's approval of the party preparing the report;

(2) for good cause, order a fund to cease using an aggregate reserve for securing its aggregate losses. Good cause shall include a finding that the aggregate reserve is actuarially unsound, that the fund is insolvent, that the fund will lack sufficient liquidity to run off its claims without reliance on future premium income, or that the fund has failed to comply with the provisions of this regulation;

(3) in the event that the fund's aggregate reserve, or reserves, is actuarially unsound, order the fund to take such corrective action as necessary to make the reserve actuarially sound.

L. If a fund receives approval of its plan to use an aggregate reserve to provide security for its aggregate losses, then:

(1) payment of dividends from premium in a fund year shall not be requested or approved for that fund year as long as any claims reserves, reserves for loss development or reserves for losses incurred but not reported (IBNR) are unfunded by actual cash reserves;

(2) no dividends shall be requested or approved from investment earnings unless the aggregate reserves for all years are actuarially sound, taking into account future contributions, and aggregate excess insurance;

(3) advance premium discounts and all expenses unnecessary for the fund to meet its obligations will be reduced or eliminated, if necessary, to provide funds to make an aggregate reserve actuarially sound;

(4) amounts actuarially determined to be necessary for the reserves for loss development and IBNR shall be a part of the fund's security deposit requirement;

(5) no premium from a year prior to the year for which the aggregate reserve is established may be allocated to fund an aggregate reserve until 12 months after the close of the prior year.

#### **§7. Indemnity Agreement**

A. Each self-insurance fund member shall enter into an indemnity agreement jointly and severally binding the self-insurance fund and each member thereof to comply with the provisions of the applicable Louisiana Revised Statutes and rules, regulations and directives of the Department of Insurance.

B. The Indemnity Agreement requirement shall not be applicable to group self-insurance funds of public employers.

#### **§8. Rates and Reporting of Rates**

Every workers' compensation self-insurance fund shall adhere to a uniform classification system, uniform experience rating plan, and manual rules approved by the commissioner. An experience modification shall be determined for each member of a self-insurance fund annually, or as otherwise provided, on the same basis as if the employer were insured under rules approved by the Louisiana Insurance Rating Commission for admitted carriers and such modification is to be used to determine the employer's standard premium as provided by such rules and the indemnity agreement. Should a member cease to participate in a self-insurance fund and purchase standard insurance coverage, self-insured experience may be used in the employer's future experience rating calculation.

#### **§9. Authorized Investments for Group Self-Insurance Funds**

Amounts not needed for current obligations may be

invested by the board of trustees in deposits in federally insured banks or savings and loan associations or in direct obligations of the United States government or direct obligations of the state of Louisiana.

#### **§10. Premium Audit**

All self-insurance funds shall determine the normal premium due from each member in each policy year based on actual audited payroll. Audits shall consist of physical on-site audits or mail self-audits. The requirements set forth herein shall apply to the fund and its present or former members. Funds shall be responsible for compliance with this Section by contracted audit personnel or firms.

#### **§11. Board of Trustees**

A. Except upon approval of the commissioner, the fund's administrator, service company, or any owner, officer, employee of, or any other person affiliated with, such administrator or service company shall not serve on the board of trustees of the fund.

B. All trustees shall be residents of this state or officers of corporations authorized to do business in this state.

C. The board of trustees of each group shall ensure that all claims are paid promptly and take all necessary precautions to safeguard the assets of the group, including all of the following:

(1) maintain responsibility for all monies collected or disbursed from the group and segregate all monies into a claims fund account and an administrative fund account. At least 70 percent of the premium as determined by the commissioner shall be designated for the sole purpose of paying claims, allocated claims expenses, and special fund contributions, including second injury and other loss related funds. This shall be called the claims fund account. The remaining net premium shall be designated for the payment of taxes, general regulatory fees, assessments, and administrative costs. This shall be called the administrative fund account. The commissioner may approve an administrative fund account of more than 30 percent and a claims fund account of less than 70 percent only if the group shows to the commissioner's satisfaction that (a) more than 30 percent is needed for an effective safety and loss control program or (b) the group's aggregate excess insurance attaches at less than 70 percent;

(2) maintain minutes of its meetings;

(3) designate an administrator to carry out the policies established by the board of trustees and to provide day-to-day management of the group, and delineate in the written minutes of its meetings the areas of authority it delegates to the administrator;

(4) retain an independent certified public accountant to prepare the statement of financial condition required by Subsections A and B of §5 hereof;

(5) the trustees shall cause to be adopted a set of by-laws or shall enter into a trust agreement which shall govern the operation of the fund.

D. The board of trustees shall not:

(1) extend credit to individual members for payment of a premium, except pursuant to payment plans approved by the commissioner;

(2) borrow any monies from the group or in the name of the group, except in the ordinary course of business, without first obtaining prior approval from the commissioner.

#### **§12. Group Membership; Termination, Liability**

A. An employer joining a group after the group has been issued a certificate of approval shall: (a) submit an application for membership to the board of trustees or its administrator and (b) enter into the indemnity agreement required by Subsection

C(1) of §3 hereof. Membership shall take effect no earlier than each member's date of approval. The application for membership and its approval shall be maintained as permanent records of the board of trustees.

B. Individual members of a group shall be subject to cancellation by the group's cancellation policy. In addition, individual members may elect to terminate their participation in the group.

C. The group shall pay all workers' compensation benefits for which each member incurs liability during its period of membership. A member who elects to terminate its membership or is canceled by a group remains liable jointly and in solido for claims of the group and its members which were incurred during the canceled or terminated member's period of membership.

D. A group member is not relieved of its workers' compensation liabilities incurred during its period of membership except through payment by the group or the member of required workers' compensation benefits.

E. The insolvency or bankruptcy of a member does not relieve the group or any other member of liability for the payment of any worker's compensation benefits incurred during the insolvent or bankrupt member's period of membership.

#### **§13. Service Companies**

A. All service companies must file a request for approval by the commissioner and have a letter or certificate of approval from the commissioner prior to engaging in any service to a fund. The commissioner may request any information deemed necessary to establish the ability and financial strength of the service company to perform the required functions.

B. Except upon approval of the commissioner: (1) no service company or its employees, officers or directors shall be an employee, officer, or director of, or have either a direct or indirect financial interest in, an administrator, and (2) no administrator or its employees, officers or directors shall be an employee, officer or director of, or have either a direct or indirect financial interest in, a service company.

C. The service contract shall state that, unless the commissioner approves otherwise, the service company shall handle, to their conclusion, all claims and other obligations incurred during the contract period.

#### **§14. Licensing of Agents**

Any person soliciting membership for a fund must be licensed by the commissioner as a property and casualty agent; provided, however, that employees of a bona fide trade or professional association which has established a fund shall not be required to be so licensed if such solicitation is not the primary duty of such employees.

#### **§15. Deficits and Insolvencies**

A. Should the commissioner find a fund in danger of becoming insolvent, the fund shall make up any deficiency owed or shall submit a plan for elimination of the deficit to the commissioner in order that he may determine whether or not an assessment upon its members for the amount needed to make up the deficiency is required.

B. In the event of a deficiency in any fund year, such deficiency shall be made up immediately, either from (a) surplus from a fund year other than the current fund year, (b) administrative funds, (c) assessment of the membership, if ordered by the fund, or (d) such alternative method as the commissioner may approve or direct. The commissioner shall be notified prior to any transfer of surplus funds from one fund year to another.

C. If the fund fails to assess its members, otherwise make up such deficit, or submit a plan, as specified in Subsection A

above, within 60 days of notice by the commissioner, the commissioner shall order assessment of the members of the fund.

D. If the fund fails to make the required assessment of its members within 30 days after the commissioner orders it to do so, or if the deficiency is not fully made up within 90 days after the date that such assessment is made, or within such longer period of time as may be specified by the commissioner, the fund shall be deemed to be insolvent.

E. For purposes of these provisions, a fund is insolvent if the fund is unable to pay its outstanding lawful obligations as they mature in the regular course of business.

F. In the event of liquidation of a fund, the commissioner shall levy an assessment upon its members for such amounts as the commissioner determines to be necessary to discharge all liabilities of the fund, including the reasonable costs of liquidation.

#### **§16. Review of Rate Determination**

Funds shall provide reasonable means whereby any member aggrieved by the application of the fund's rating system may, in writing, request a review of the manner in which such rating system has been applied in connection with the coverage afforded. The fund shall have 30 days from receipt to grant or deny the request, in writing. If the fund rejects such request or fails to grant or reject such request within such 30-day period, the member may, within 30 days following the expiration of such 30-day period, appeal to the commissioner, who, after a hearing held upon not less than 10 days' written notice to the member and to the fund, may affirm or reverse such action.

#### **§17. Cease and Desist Orders**

A. After notice and opportunity for a hearing, the commissioner may issue an order requiring a person or group to cease and desist from engaging in an act or practice found to be in violation of any provision of this regulation.

B. Upon finding, after notice and opportunity for a hearing, that any person or group has violated any cease and desist order, the commissioner may revoke the group's certificate of authority.

#### **§18. Revocation of Certificate of Authority**

After notice and opportunity for a hearing, the commissioner may revoke a group's certificate of authority if:

- (1) the group is found to be insolvent,
- (2) the group fails to pay any premium tax, regulatory fee or assessment, or special fund contribution imposed upon it,
- (3) the group fails to comply with any of the provisions of this regulation, or with any lawful order of the commissioner within the time prescribed,
- (4) the certificate of authority issued to the group was obtained by fraud,
- (5) there was a material misrepresentation in the application for the certificate of authority, or
- (6) the group or its administrator has misappropriated, converted, illegally withheld, or refused to pay over upon proper demand any monies held in a fiduciary capacity that belong to a member, an employee of a member, or another person.

#### **§19. Examinations**

The commissioner may examine the affairs, transactions, accounts, records, assets and liabilities of a fund as often as the commissioner deems advisable. The expenses of such examinations shall be paid by the fund being examined.

A public hearing on this proposed regulation will be held on October 27, 1992 in the Plaza Hearing Room of the Insurance Building, located at 950 North Fifth Street, Baton

Rouge, LA at 10 a.m. All interested persons will be afforded an opportunity to make comments.

Interested persons may obtain a copy of this proposed regulation from, and may submit oral or written comments to Barry W. Karns, Deputy General Counsel, Department of Insurance, Box 94214, Baton Rouge, Louisiana 70804-9214, telephone (504) 342-5900. Comments will be accepted through the close of business at 4:30 p.m., October 27, 1992.

James H. "Jim" Brown  
Commissioner

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: Group Self-Insurance Funds**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS)  
TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is estimated that there will be no implementation costs to state or local governmental units.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS  
OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is estimated that there will be no effect on revenue collections of the state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS  
TO DIRECTLY AFFECTED PERSONS OR NON-  
GOVERNMENTAL GROUPS (Summary)**

There could be some additional costs to workers compensation group self-insurance funds because of additional reporting requirements, but it is estimated that these additional costs, if any, will be minimal.

**IV. ESTIMATED EFFECT ON COMPETITION AND  
EMPLOYMENT (Summary)**

It is estimated that there will be no effect on competition and employment.

Brenda St. Romain  
Fiscal Officer

John R. Rombach  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Insurance  
Commissioner of Insurance**

**Regulation 44**

Pursuant to the provisions of R.S. 22:644 of the Insurance Code, which mandates adoption of this regulation, and R.S. 49:950 et seq. of the Administrative Procedure Act, the Commissioner of Insurance gives notice of his intent to adopt Regulation 44. This regulation regulates accelerated benefit provisions in life insurance policies. It also establishes required standards for disclosure of information to purchasers of life insurance policies with accelerated benefit provisions. This regulation applies to both individual and group life insurance policies issued or delivered in this state.

Proposed Regulation 44 regulates life insurance policies which contain accelerated benefits provisions. It sets forth

the definitions for key terms contained in such policies. It establishes required standards for disclosure of information to purchasers of such policies, regulates the payment of benefits to assignees and beneficiaries and waivers of premiums. It prohibits discrimination based upon "qualifying events". It also establishes actuarial standards and actuarial disclosure and reserve requirements to be followed by insurers which market such policies.

**Regulation 44  
Accelerated Benefits**

**§1. Purpose**

The purpose of this regulation is to regulate accelerated benefit provisions of individual and group life insurance policies and to provide required standards of disclosure. This regulation shall apply to all accelerated benefits provisions of individual and group life insurance policies except those subject to the Long-Term Care Insurance Model Act, issued or delivered in this state, on or after the effective date of this regulation.

**§2. Definitions**

**A. Accelerated benefits** covered under this regulation—benefits payable under a life insurance contract:

(1) to a policyowner or certificateholder, during the lifetime of the insured, in anticipation of death or upon the occurrence of specified life-threatening or catastrophic conditions as defined by the policy or rider; and

(2) which reduce the death benefit otherwise payable under the life insurance contract; and

(3) which are payable upon the occurrence of a single qualifying event which results in the payment of a benefit amount fixed at the time of acceleration.

**B. Qualifying event**—includes one or more of the following:

(1) a medical condition which would result in a drastically limited life span as specified in the contract, for example, 24 months or less; or

(2) a medical condition which has required or requires extraordinary medical intervention, such as, but not limited to, major organ transplant or continuous artificial life support, without which the insured would die; or

(3) any condition which usually requires continuous confinement in an eligible institution as defined in the contract if the insured is expected to remain there for the rest of his or her life; or

(4) a medical condition which would, in the absence of extensive or extraordinary medical treatment, result in a drastically limited life span. Such conditions may include, *but are not limited to*, one or more of the following:

(a) coronary artery disease resulting in an acute infarction or requiring surgery;

(b) permanent neurological deficit resulting from cerebral vascular accident;

(c) end stage renal failure;

(d) acquired Immune Deficiency Syndrome; or

(e) other medical conditions which the commissioner shall approve for any particular filing; or

(5) other qualifying events which the commissioner shall approve for any particular filing.

**§3. Type of Product**

Accelerated benefit riders and life insurance policies with accelerated benefit provisions are primarily mortality risks rather than morbidity risks. They are life insurance benefits subject to 22:161-181; 22:191-197; and the



applicable portions of Part XIV (22:611-672).

#### **§4. Assignee/Beneficiary**

Prior to the payment of the accelerated benefit, the insurer is required to obtain from any assignee or irrevocable beneficiary a signed acknowledgement of concurrence for payout. If the insurer making the accelerated benefit is itself the assignee under the policy, no such acknowledgement is required.

#### **§5. Criteria for Payment**

A. Lump Sum Settlement Option Required. Contract payment options shall include the option to take the benefit as a lump sum. The benefit shall not be made available as an annuity contingent upon the life of the insured.

B. Restrictions on Use of Proceeds. No restrictions are permitted on the use of the proceeds.

C. Accidental Death Benefit Provision. If any death benefit remains after payment of an accelerated benefit, the accidental death benefit provision, if any, in the policy or rider shall not be affected by the payment of the accelerated benefit.

#### **§6. Disclosures**

A. Descriptive Title. The terminology *accelerated benefit* shall be included in the descriptive title. Products regulated under this regulation shall not be described or marketed as long-term care insurance or as providing long-term care benefits.

B. Tax Consequences. A disclosure statement is required at the time of application for the policy or rider and at the time the accelerated benefit payment request is submitted that receipt of these accelerated benefits may be taxable and that assistance should be sought from a personal tax advisor. The disclosure statement shall be prominently displayed on the first page of the policy or rider and any other related documents.

##### **C. Solicitations**

(1) A written disclosure including, but not necessarily limited to, a brief description of the accelerated benefit and definitions of the conditions or occurrences triggering payment of the benefits shall be given to the applicant. The description shall include an explanation of any effect of the payment of a benefit on the policy's cash value, accumulation account, death benefit, premium, policy loans and policy liens.

(a) In the case of agent solicited insurance, the agent shall provide the disclosure form to the applicant prior to or concurrently with the application. Acknowledgment of the disclosure shall be signed by the applicant and writing agent.

(b) In the case of a solicitation by direct response methods, the insurer shall provide disclosure form to the applicant at the time the policy is delivered, with a notice that a full premium refund shall be received if policy is returned to the company within the free look period.

(c) In the case of group insurance policies, the disclosure form shall be contained as part of the certificate of coverage or any related document furnished by the insurer for the certificateholder.

(2) If there is a premium or cost of insurance charge, the insurer shall give the applicant a generic illustration numerically demonstrating any effect of the payment of a benefit on the policy's cash value, accumulation account, death benefit, premium, policy loans and policy liens.

(a) In the case of agent solicited insurance, the agent shall provide the illustration to the applicant prior to or concurrently with the application.

(b) In the case of a solicitation by direct response methods, the insurer shall provide the illustration to the applicant at the time the policy is delivered.

(c) In the case of group insurance policies, the disclosure form shall be contained as part of the certificate of coverage or any related document furnished by the insurer for the certificateholder.

##### **(3) Disclosure of Premium Charge**

(a) Insurers with financing options other than as described in Section 10 A(2) and (3) of this regulation shall disclose to the policyowner any premium or cost of insurance charge for the accelerated benefit. These insurers shall make a reasonable effort to assure that the certificateholder is aware of any additional premium or cost of insurance charge if the certificateholder is required to pay such charge.

(b) Insurers shall furnish an actuarial demonstration to the state insurance department when filing the product disclosing the method of arriving at their cost for the accelerated benefit.

(4) Disclosure of Administrative Expense Charge. The insurer shall disclose to the policyowner any administrative expense charge. The insurer shall make a reasonable effort to assure that the certificateholder is aware of any administrative expense charge if the certificateholder is required to pay such charge.

D. Effect of the Benefit Payment. When a policyowner or certificateholder requests an acceleration, the insurer shall send a statement to the policyowner or certificateholder and irrevocable beneficiary showing any effect that the payment of the accelerated benefit will have on the policy's cash value, accumulation account, death benefit, premium, policy loans and policy liens. The statement shall disclose that receipt of accelerated benefit payments may adversely affect the recipient's eligibility for Medicaid or other government benefits or entitlements. In addition, receipt of an accelerated benefit payment may be taxable and assistance should be sought from a personal tax advisor. When a previous disclosure statement becomes invalid as a result of an acceleration of the death benefit, the insurer shall send a revised disclosure statement to the policyowner or certificateholder and irrevocable beneficiary. When the insurer agrees to accelerate death benefits, the insurer shall issue an amended schedule page to the policyholder or notify the certificateholder under a group policy to reflect any new, reduced in-force face amount of the contract.

#### **§7. Effective Date of the Accelerated Benefits**

The accelerated benefit provision shall be effective for accidents on the effective date of the policy or rider. The accelerated benefit provision shall be effective for illness no more than 30 days following the effective date of the policy or rider.

#### **§8. Waiver of Premiums**

The insurer may offer a waiver of premium for the accelerated benefit provision in the absence of a regular waiver of premium provision being in effect. At the time the benefit is claimed, the insurer shall explain any continuing premium requirement to keep the policy in force.

#### **§9. Discrimination**

Insurers shall not unfairly discriminate among insureds with differing qualifying events covered under the policy or among insureds with similar qualifying events covered under the policy. Insurers shall not apply further conditions on the payment of the accelerated benefits other than those

conditions specified in the policy or rider.

#### **§10. Actuarial Standards**

##### **A. Financing Options**

(1) The insurer may require a premium charge or cost of insurance charge for the accelerated benefit. These charges shall be based on sound actuarial principles. In the case of group insurance, the additional cost may also be reflected in the experience rating.

(2) The insurer may pay a present value of the face amount. The calculation shall be based on any applicable actuarial discount appropriate to the policy design. The interest rate or interest rate methodology used in the calculation shall be based on sound actuarial principles and disclosed in the contract or actuarial memorandum. The maximum interest rate used shall be no greater than the greater of:

(a) the current yield on 90 day treasury bills; or

(b) the current maximum statutory adjustable policy loan interest rate.

(3) The insurer may accrue an interest charge on the amount of the accelerated benefits. The interest rate or interest rate methodology used in the calculation shall be based on sound actuarial principles and disclosed in the contract or actuarial memorandum. The maximum interest rate used shall be no greater than the greater of:

(a) the current yield on 90 day treasury bills; or

(b) the current maximum statutory adjustable policy loan interest rate. The interest rate accrued on the portion of the lien which is equal in amount to the cash value of the contract at the time of the benefit acceleration shall be no more than the policy loan interest rate stated in the contract.

##### **B. Effect on Cash Value**

(1) Except as provided in Section 10B(2), when an accelerated benefit is payable, there shall be no more than a pro rata reduction in the cash value based on the percentage of death benefits accelerated to produce the accelerated benefit payment.

(2) Alternatively, the payment of accelerated benefits, any administrative expense charges, any future premiums and any accrued interest can be considered a lien against the death benefit of the policy or rider and the access to the cash value may be restricted to any excess of the cash value over the sum of any other outstanding loans and the lien. Future access to additional policy loans could also be limited to any excess of the cash value over the sum of the lien and any other outstanding policy loans.

C. Effect of Any Outstanding Policy Loans on Accelerated Death Benefit Payment. When payment of an accelerated benefit results in a pro rata reduction in the cash value, the payment may not be applied toward repaying an amount greater than a pro rata portion of any outstanding policy loans.

#### **§11. Actuarial Disclosure and Reserves**

A. Actuarial Memorandum. A qualified actuary should describe the accelerated benefits, the risks, the expected costs and the calculation of statutory reserves in an actuarial memorandum accompanying each state filing. The insurer shall maintain in its files descriptions of the bases and procedures used to calculate benefits payable under these provisions. These descriptions shall be made available for examination by the commissioner upon request.

##### **B. Reserves**

(1) When benefits are provided through the

acceleration of benefits under group or individual life policies or riders to such policies, policy reserves shall be determined in accordance with the Standard Valuation Law. All valuation assumptions used in constructing the reserves shall be determined as appropriate for statutory valuation purposes by a member in good standing of the American Academy of Actuaries. Mortality tables and interest currently recognized for life insurance reserves by the NAIC may be used as well as appropriate assumptions for the other provisions incorporated in the policy form. The actuary must follow both actuarial standards and certification for good and sufficient reserves. Reserves in the aggregate should be sufficient to cover:

(a) policies upon which no claim has yet arisen;

(b) policies upon which an accelerated claim has arisen.

(2) For policies and certificates which provide actuarially equivalent benefits, no additional reserves need to be established.

(3) Policy liens and policy loans, including accrued interest, represent assets of the company for statutory reporting purposes. For any policy on which the policy lien exceeds the policy's statutory reserve liability such excess must be held as a non-admitted asset.

#### **§12. Filing Requirement**

The filing and prior approval of forms containing an accelerated benefit is required.

The proposed regulation is scheduled to become effective December 20, 1992. Interested parties may submit written comments on the proposed regulation until 4:30 p.m., October 16, 1992 to: C. Noel Wertz, Senior Attorney, Box 94214, Baton Rouge, LA 70804-9214.

James H. "Jim" Brown  
Commissioner

#### **Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Regulation 44**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
It is not anticipated that the Department of Insurance will incur any costs or savings as a result of implementing this regulation. The regulation does not impose any new duties on the department that would require funding for additional personnel.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
Adoption of this regulation will not have any effect on revenue collections by the state or local governmental units. There are no fees, fines or other revenue generating activities imposed.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)  
It is not anticipated that this regulation will impose any additional costs on those companies which market insurance policies that contain accelerated benefits provisions.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
It is not anticipated that there will be any effect on either competition or employment resulting from the

adoption of this regulation.

Brenda St. Romain  
Fiscal Officer

John R. Rombach  
Legislative Fiscal Officer

## NOTICE OF INTENT

### Department of Insurance Commissioner of Insurance

#### Regulation 40

Pursuant to the provisions of R.S.49:950 et seq. and R.S. 22:3 and R.S.22:1395.18(B)(C)(D), the commissioner of insurance gives notice of his intent to amend Regulation 40. The amendments to the regulation establish the form and content for the LLHIGA Summary Document, which includes the Disclaimer as originally promulgated, and the Notice of Noncoverage. These documents are to be delivered to insurance consumers as provided for in R.S. 22:1395.18(B) and (D).

Proposed Regulation 40, as amended, sets forth the form and content of the Summary Document, including the Disclaimer, which is to be delivered to purchasers of life and health policies. It also sets forth the form and content of a Notice of Noncoverage which is to be delivered to purchasers of certain types of policies or contracts as set forth in R.S. 22:1395.18(D).

The regulation begins with a statement of authority for its issuance, its purpose and scope. It then prescribes in detail the form and content of the above documents.

### Proposed Regulation 40 LLHIGA Act Summary Document and Disclaimer and Notice of Noncoverage

#### §1. Authority

This regulation is promulgated under the authority of Title 22:3 and 22:1395.18(B)(C)(D) of the Insurance Code of Louisiana and the Administrative Procedure Act, R.S.49:950 et seq.

#### §2. Purpose

The purpose of this regulation is to implement Act 998 of the 1991 Regular Legislative Session, entitled Louisiana Life and Health Insurance Guaranty Association (LLHIGA) as set forth in R.S. 22:1395.1, et seq., which is designed to protect covered persons against the risk of insurer insolvencies under certain life and health insurance policies.

The purpose of the documents is to give notice to the insurance-buying consumer that the LLHIGA Act includes restrictions as to coverage, and in some instances excludes coverage for certain types of policies or contracts, and includes substantial limitations as to the amounts which may be reimbursed in the event of the insolvency of the insurer.

#### §3. Applicability and Scope

This regulation applies to the Louisiana Life and Health Insurance Guaranty Association (LLHIGA) and its member insurers as defined by R.S.22:1395.3.

Exhibit A, which follows hereto and is made a part hereof, sets forth the form and content of the Summary Document, as approved by the commissioner of Insurance on August 10, 1992, summarizes the coverage provided by the Act, and includes a

Disclaimer statement which is to be conspicuously placed on the front of the Summary Document. Pursuant to R.S.22:1395.18B the Summary Document with the Disclaimer is to be delivered with each life or health insurance policy, as described in R.S.1395.3(B)(1), issued or delivered in Louisiana.

Exhibit B, which follows hereto and is made apart hereof, sets forth the Notice of Noncoverage required by R.S. 22:1395.18(D). It is required to be delivered with each policy or contract referred to in R.S. 22:1395.3(B)(1) and excluded from coverage under R.S. 22:1395.3(B)(2)(a).

#### §4. Form and Content

The Summary Document and Disclaimer shall be in a form which complies with Exhibit A which follows hereto and forming a part of this regulation.

The Notice of Noncoverage shall be in a form which complies with Exhibit B which follows hereto and forming a part of this regulation.

#### Exhibit A. Summary of the Louisiana Life and Health Insurance Guaranty Association Act and Notice Concerning Coverage Limitations and Exclusions

Residents of Louisiana who purchase life insurance, annuities or health insurance should know that the insurance companies licensed in this state to write these types of insurance are members of the Louisiana Life and Health Insurance Guaranty Association. The purpose of this Association is to assure that policyholders will be protected, within limits, in the unlikely event that a member insurer becomes financially unable to meet its obligations. If this should happen, the Guaranty Association will assess its other member insurance companies for the money to pay the claims of insured persons who live in this state and, in some cases, to keep coverage in force. However, the valuable extra protection provided by these insurers through the Guaranty Association is limited. As noted in the Disclaimer below, this protection is not a substitute for consumers' care in selecting companies that are well-managed and financially stable.

#### Disclaimer

*The Louisiana Life and Health Insurance Guaranty Association provides coverage of claims under some types of policies if the insurer becomes impaired or insolvent. COVERAGE MAY NOT BE AVAILABLE FOR YOUR POLICY. Even if coverage is provided, there are significant limits and exclusions. Coverage is always conditioned upon residence in this state. Other conditions may also preclude coverage.*

*Insurance companies and insurance agents are prohibited by law from using the existence of the association or its coverage to sell you an insurance policy.*

*You should not rely on the availability of coverage under the Louisiana Life and Health Insurance Guaranty Association when selecting an insurer.*

*The Louisiana Life and Health Insurance Guaranty Association or the Department of Insurance will respond to any questions you may have which are not answered by this document.*

LLHIGA  
PO Drawer 44126

Department of Insurance  
PO Box 94212

Baton Rouge, LA 70804

Baton Rouge, LA 70804-9214

The state law that provides for this safety-net coverage is called the Louisiana Life and Health Insurance Guaranty Association Act. The following is a brief summary of this law's coverages, exclusions and limits. This summary does not cover all provisions of the law; nor does it in any way change any person's rights or obligations under the Act or the rights or obligations of the Guaranty Association.

## Coverage

Generally, individuals will be protected by the Life and Health Insurance Guaranty Association if they live in this state and hold a life or health insurance contract, or an annuity, or if they are insured under a group insurance contract, issued by an insurer authorized to conduct business in Louisiana. The beneficiaries, payees or assignees of insured persons are protected as well even if they live in another state.

## Exclusions from Coverage

However, persons holding such policies are not protected by this association, if:

(1) they are eligible for protection under the laws of another state (this may occur when the insolvent insurer was incorporated in another state whose Guaranty Association protects insureds who live outside that state);

(2) the insurer was not authorized to do business in this state;

(3) their policy was issued by a nonprofit hospital or medical service organization (the "Blues"), an HMO, a fraternal benefit society, a mandatory state pooling plan, a mutual assessment company or similar plan in which the policyholder is subject to future assessments, or by an insurance exchange.

The association also does not provide coverage for:

(1) any policy or portion of a policy which is not guaranteed by the insurer or for which the individual has assumed the risk, such as a variable contract sold by prospectus;

(2) any policy of reinsurance (unless an assumption certificate was issued);

(3) interest rate yields that exceed an average rate;

(4) dividends;

(5) credits given in connection with the administration of a policy by a group contract holder;

(6) employers' plans to the extent they are self-funded (that is, not insured by an insurance company, even if an insurance company administers them);

(7) unallocated annuity contracts (which give rights to group contract holders, not individuals), unless qualified under Section 403(b) of the Internal Revenue Code, except that, even if qualified under Section 403(b), unallocated annuities issued to employee benefit plans protected by the Federal Pension Benefit Guaranty Corporation are not covered.

## Limits on Amounts of Coverage

The act also limits the amount the association is obligated to pay out: The association cannot pay more than what the insurance company would owe under a policy or contract. Also, for any one insured life, the association will pay a maximum of \$300,000 no matter how many policies and contracts there were with the same company, even if they provided different types of coverage. Within this overall \$300,000 limit, the Association will not pay more than \$100,000 in cash surrender values, \$100,000 in health insurance benefits, \$100,000 in present value of annuities, or \$300,000 in life insurance death benefits - again, no matter how many policies and contracts there were with the same company, and no matter how many different types of coverages.

## Exhibit B. Notice of Noncoverage

The Louisiana Life and Health Insurance Guaranty Association (LLHIGA) provides coverage of claims under some types of policies if the insurer becomes impaired or insolvent.

THE POLICY OR CONTRACT YOU ARE PURCHASING  
IS NOT COVERED BY THE LOUISIANA LIFE AND  
HEALTH INSURANCE GUARANTY ASSOCIATION.

Coverage is specifically excluded by law for the type of

policy or contract you are purchasing.

The proposed amendments to Regulation 40 are scheduled to become effective December 20, 1992. Interested parties may submit written comments on the proposed regulation until 4:30 p.m., October 16, 1992 to: C. Noel Wertz, Senior Attorney, Box 94214, Baton Rouge, LA 70804-9214.

James H. "Jim" Brown  
Commissioner

## Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Regulation 40

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
It is not anticipated that the Department of Insurance will incur any costs or savings as a result of implementing this regulation. The regulation does not impose any new duties on the department with the exception of reviewing requests for premium rate increases. The department has adequate personnel available to handle this responsibility.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
Adoption of this regulation will not have any effect on revenue collections by the state or local governmental units. There are no fees, fines or other revenue generating activities imposed.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)  
It is not anticipated that this regulation will impose any additional costs on those companies which market medicare supplement insurance policies in Louisiana.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
It is not anticipated that there will be any effect on either competition or employment resulting from the adoption of this regulation.

Brenda St. Romain  
Fiscal Officer

John R. Rombach  
Legislative Fiscal Officer

## NOTICE OF INTENT

### Department of Revenue and Taxation Sales Tax Division

Pollution Control Devices-Sales Tax Relief (LAC 61:I.4302)

The Department of Revenue and Taxation advertises its intent to adopt a rule to be cited as LAC 61:I.4302. The proposed rule, promulgated pursuant to Act 1019 of the 1991 Legislative Session of the Legislature, sets forth the qualification criteria and application procedures for the state sales tax relief provided under R.S. 47:301(10)(1), which excludes pollution control devices and systems from the definition of "sale at retail."

This notice of intent replaces a previous notice of intent published on pages 532-534 of the May, 1992 *Louisiana Register*.

## Title 61

### Revenue and Taxation

#### Part I. Taxes Collected and Administered by the Secretary of Revenue and Taxation

##### Chapter 43. Sales and Use Tax

##### §4302. Pollution Control Devices and Systems Excluded from the Definition of "Sale and Retail"

A. This Section describes the conditions under which certain sale or lease transactions involving tangible personal property used for pollution control purposes may be excluded from the definition of "sale at retail" for purposes of the three percent tax levied by this Chapter and the Louisiana Tourism Promotion District. It contains the qualifications which must be met by the property under consideration, the requirements which are imposed upon the applicant for the tax relief granted under this act, and the procedures to be followed in applying for the relief.

B. Definitions. For purposes of this Section, the following terms shall have the meaning ascribed herein:

1. *Pollution Control Device or System* — any one or more pieces of tangible personal property which is intended and installed for the purpose of eliminating, preventing, treating, or reducing the volume or toxicity or potential hazards of industrial pollution of air, water, groundwater, noise, solid waste, or hazardous waste in the state of Louisiana and which has been approved by the Department of Environmental Quality and the Department of Revenue and Taxation for the tax relief granted by this act.

2. *Pollution* — the environment of the state by any means that would tend to degrade the chemical, physical, biological, or radiological integrity of such environment. Pollution includes solid waste, hazardous waste, sludge, chemical waste, radiological wastes, noise, and any other pollutants resulting from industrial emissions, discharges, or releases into air, water, or land.

3. *Act or This Act* — Act 1019 of the 1991 Regular Session of the Louisiana Legislature.

4. *Industrial Application* — the use, construction, or installation of a pollution control device or system by a business which is primarily engaged in the exploration for or mining of minerals, the manufacture or processing of raw materials into tangible personal property for resale, or the processing, treatment, disposition, control or containment, of polluting materials produced by another business.

C. Qualifications. To qualify for the tax relief provided under this Act, a pollution control device or system must comply with the following requirements:

1. It must demonstrate to the Department of Environmental Quality its efficacy to a particular process or application. The equipment must be approved by both the Department of Environmental Quality and the Department of Revenue and Taxation in order to be excluded from the definition of "sale at retail" for state sales and use tax purposes.

2. It (or the applicant) must demonstrate either:

a. a net decrease in the volume or toxicity or potential hazards of pollution as a result of the installation of the device or system; or,

b. that installation is necessary to comply with federal or state environmental laws or regulations.

3. It must be intended for use in an industrial application. Use in residential, commercial, recreational, or other applications do not qualify.

D. Restrictions. This exclusion and the tax relief provided under this Act does not apply to:

1. modifications to processes carried out primarily for reasons other than the reduction of pollution;

2. installation or replacement of existing process units carried out primarily for reasons other than the reduction of pollution;

3. vehicles used to assist in operations.

E. Application and Documentation

1. Applicants seeking relief under this Act must submit an application to the Department of Revenue and Taxation for a certification of the pollution control device or system.

2. The respective departments may require the applicant to provide cost estimates, engineering drawings, equipment specification sheets, and any other documentation necessary to establish the identity and value of the property qualifying for the exclusion. The documentation must be sufficient to enable the Department of Environmental Quality to establish the efficacy of the pollution control device or system, and to allow the Department of Revenue and Taxation to ascertain the allowable tax relief.

3. After receiving certification from the Department of Environmental Quality, a certificate of tax exclusion and/or refund of taxes paid on approved pollution control equipment will be issued by the Department of Revenue and Taxation. Applicants must assemble and consolidate all invoices on purchases made by themselves and their subcontractors. Refunds will not be issued to subcontractors.

a. Owners and/or operators of qualifying pollution control devices or systems may apply for certification and refund of taxes paid on or after September 6, 1991, and prior to the date of certification.

b. In order for a pollution control device or system to qualify as tax free at the time of purchase, applicants must have received a certification of approval from the Department of Environmental Quality and the Department of Revenue and Taxation prior to the purchase or lease of the equipment. The applicant, or contractors who are duly authorized to act as an agent of the applicant, may present an approved certification in lieu of the tax at the time of purchase.

c. If the application for the tax exemption on the pollution control device or system cannot be processed and approved before purchases are made or property is imported into the state for the project, the state sales or use tax shall be paid at the time of purchase or importation. Tax refunds will be issued upon approval of the project and the filing of proper claims. Applicants filing for refunds will have purchased and installed, or intend to install, the pollution control device or system.

4. The owner and/or operator must report the final cost of the pollution control devices or systems to the Department of Revenue and Taxation. Audits and inspections may be performed by the respective departments to ascertain the efficacy of the equipment. The tax refund will be forfeited if the pollution control device or system does not meet the requirements of this act.

5. Approval of the equipment for a sales tax refund does not relieve the applicant from obtaining any other permits otherwise required for the pollution control device or system, including permits to install or construct prior to start of construction.

6. Each application for tax relief must be signed by an officer, principal, or other person authorized to act in the behalf of the applicant, and must be accompanied by a certification affidavit executed by the owner and/or operator and a certification affidavit executed by a professional engineer. Both certification affidavits will be prepared on the application form

supplied by the Department of Revenue and Taxation.

#### F. Confidentiality

Applications and all documentation and cost information which are submitted to the Department of Revenue and Taxation under this Act are considered confidential taxpayer information under the provisions of R.S. 47:1508. Information which pertains to pollution control devices or systems costs will be maintained only at the office of the Department of Revenue and Taxation.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 47:301(10)(l).

**HISTORICAL NOTE:** Promulgated by the Department of Revenue and Taxation, Sales Tax Division, LR 18:

Interested persons may submit their written comments on the proposed rule to Raymond E. Tangney, Director, Sales Tax Division, Department of Revenue and Taxation, Box 3863, Baton Rouge, LA 70821.

A public hearing for the purpose of hearing objections to and comments on this proposed rule will be held on October 21, 1992, at 9 a.m., in the second floor conference room of the Department of Revenue and Taxation building, 330 N. Ardenwood Drive, Baton Rouge, LA.

Ralph Slaughter, CPA  
Secretary

### Fiscal and Economic Impact Statement For Administrative Rules

#### Rule Title: Pollution Control Devices and Systems

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

**Department of Environmental Quality Costs:** It is estimated that two engineers, one environmental quality specialist and a secretary will be required to handle the paperwork associated with this program. The first year personnel cost, including overhead, is estimated to be \$84,064 (assuming personnel are in place for only six months), the second year cost is \$158,897 and the third year cost is \$164,802. The second and third year figures are for a full year. These figures assume a narrow interpretation of "industrial" and "pollution control device or system." If these items are interpreted broadly the implementation costs could be much higher. These costs will be borne by state government.

**Department of Revenue and Taxation Costs:** It is estimated that one additional revenue accounts auditor will be required to process the certifications and refund claims submitted by taxpayers. The cost for the current fiscal year is \$13,520, and the cost for each of the next two fiscal years is \$28,057 and \$29,117 respectively.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are several ways to estimate the effect on state government revenues with each method producing a different result. The original methodology using *Census of Manufacturers Census of Mineral Industries* data projected an annual cost of \$2.7 million. The methodology used here projects an annual revenue loss to state government of \$6 million when considering only emissions reduction projects associated with the Environmental Scorecard and emissions reductions plans submitted as a result of the DEQ corporate challenge. However, if this analysis is expanded to include the mining sector (oil and gas) and the potential impact of just one proposed regulation is included (restricting produced waters discharges), additional

costs could escalate program costs by as much as \$9 million to a new annual cost of \$15 million (assuming all capital expenditures related to the produced waters regulations occurred in one year).

However, it must be noted that because at this time there is no precise definition for "industrial" or "pollution control device or system" it is difficult to produce a precise estimate of the cost to the General Fund of the state sales tax exemption. No matter which methodology is used the final result will be only an educated guess and the actual results could vary greatly from the projected figure.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There will be a small cost to firms that purchase qualifying devices or systems. This will be the cost to complete paperwork required to be submitted to the Department of Environmental Quality. The paperwork will document that the equipment purchased actually meets the pollution reduction standards as defined in these rules. The cost will be nominal for small purchases. For large systems the cost is expected to be small in relation to the tax benefit received.

All firms purchasing or importing qualifying equipment in Louisiana will benefit in that they will be exempted from the three percent state sales and use tax.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be little effect on competition since the exemption applies to any company that purchases industrial pollution control equipment in Louisiana or imports such equipment into the state.

There might be a slight stimulus to private sector employment. However, the value of the exemption is only three percent and some of the equipment to be purchased would have been bought in any case since it was already required by other environmental legislation such as the Clean Air Act.

Employment in the public sector will increase by a minimum of five state government positions.

Raymond E. Tangney  
Director, Sales Tax Division

David W. Hood  
Senior Fiscal Analyst

### NOTICE OF INTENT

#### Department of Social Services Office of the Secretary

The Department of Social Services, Office of the Secretary proposes to adopt the following rule in the Child Care Assistance Program effective December 20, 1992.

This proposed rule removes eligibility requirements for the Title IV-A At-Risk Child Care program, which was not implemented as originally planned, because of a lack of available funds.

#### Title 67 SOCIAL SERVICES Part I. Office of the Secretary

#### Chapter 1. Child Care Assistance Program

#### §101. Child Care and Development Block Grant — Eligibility Requirements

1. household income does not exceed 75 percent of the state median income for a household of the same size.

\* \* \*

6. the family requests child care services, provides the information necessary for determining eligibility and fees, and meets appropriate application requirements established by the state.

**§102. Child Care Providers**

\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with 45 CFR Part 98, 99, 255 and 257.

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Office of the Secretary, LR 18:

Interested persons may submit written comments by October 27, 1992 to the following address: William Ludwig, Deputy Secretary, Department of Social Services, Box 3776, Baton Rouge, LA 70821. He is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on October 27, 1992 in the Second Floor Auditorium, 755 Riverside, Baton Rouge, LA beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at said hearing.

Gloria Bryant-Banks  
Secretary

**Fiscal and Economic Impact Statement  
For Administrative Rules**

**Rule Title: Child Care Assistance Program**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

This rule will result in savings to the Department of Social Services, as follows:

FY	TOTAL	FEDERAL	STATE
92/93	(\$ 7,825,982)	(\$ 5,903,921)	(\$ 1,922,061)
93/94	(\$ 7,825,982)	(\$ 5,903,921)	(\$ 1,922,061)
94/95	(\$ 7,825,982)	(\$ 5,903,921)	(\$ 1,922,061)

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Federal funding by the U.S. Department of Health and Human Services is estimated to be reduced, as follows:

\$ 5,903,921 in FY 92/93  
\$ 5,903,921 in FY 93/94  
\$ 5,903,921 in FY 94/95

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)**

This action results in neither costs nor benefits. Department of Social Services had previously published plans to implement a Child Care Assistance Program, funded by the Child Care and Development Block Grant and the Title IV-A At-Risk Child Care program. When the Child Care Assistance Program was implemented, funds for the Title IV-A At-Risk program were unavailable, so that portion of the program was not implemented.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

Because the Department of Social Services did not implement the Title IV-A At-Risk portion of the Child Care Assistance Program, the amount of funds expended on child care services will be less than originally estimated. Demand for child care services by low income families will be less than originally expected, with the result that

competition and employment in the child care industry will be less than it would have been if the \$7,825,982 in Title IV-A At-Risk funds had been spent.

William Ludwig  
Deputy Secretary

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Department of Transportation and Development  
Office of Engineering**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., notice is hereby given that the Louisiana Department of Transportation and Development intends to adopt the attached rule entitled "Utility Relocation Assistance Funding", in accordance with the provisions of R.S. 48:381.

**Title 70**

**TRANSPORTATION**

**Part III. Highways/Engineering**

**Chapter 11. Utility Relocation Assistance Funding**

**§1101. Introduction**

When a publicly owned, non-profit utility is not able to bear its share of the cost for adjusting its facilities to accommodate a highway project, it may apply for funding under R.S. 48:381(C), hereinafter referred to as Utility Relocation Assistance Funding (URAF).

**A. General Conditions**

1. In order to qualify for URAF funds, a utility must be owned by a governmental body such as a municipality or parish, or be a non-profit utility.

2. In order to qualify for URAF funds, a utility must be financially unable to bear its share of the adjustment expense.

3. URAF funding is neither a loan nor a grant and there is no interest charged on this money. However, the utility must repay this money eventually, or it will not be allowed to located its facilities within highway right-of-way.

4. Highway adjustments are considered normal, foreseeable maintenance for utilities located on highway right-of-way.

**B. Procedure**

1. The publicly owned or non-profit utility informs the headquarters utility and permit engineer, in writing, that it is not financially able to bear the cost of adjusting its facilities, and formally requests URAF funding.

2. The headquarters utility and permit engineer requests the Legislative Auditor to examine the utility's records to determine the utility's eligibility for URAF funds.

3. The Legislative Auditor examines the utility's records and informs the headquarters utility and permit engineer of the utility's eligibility for URAF funds.

4. If the utility is eligible for URAF funds, executed agreements are converted to URAF agreements, and/or new agreements are executed as necessary.

5. The Federal Highway Administration is advised when URAF funds are approved for federal aid projects.

6. Issuance of permits to the utility is suspended, and the utility is added to the URAF database. Note that the suspension does not include most crossings.

7. The final amount of URAF funds used is added to

the URAF database after final payment is made.

8. After final payment is made, Department of Transportation and Development Project Control is informed of the total amount of URAF funds used and bills the utility accordingly.

9. Issuance of permits to the utility will remain suspended until Department of Transportation and Development Project Control notifies the utility and permit section that the utility has repaid the full amount to the Department of Transportation and Development. The utility may repay this amount as a lump sum, in partial amounts, in exchange for goods and/or services, or in any combination thereof. Department of Transportation and Development Project Control shall notify the headquarters utility and permit engineer of any payments as soon as they are received. Note that an exchange of goods or services is at the discretion of the Department of Transportation and Development. Note that the Federal Highway Administration participates in URAF costs. It is the responsibility of Department of Transportation and Development Project Control to credit Federal Highway Administration, at its participating percentage, for any funds that are repaid.

#### C. Issuance of Permits

1. General issuance of permits may resume if the utility shows a good faith effort to repay this debt by making annual payments to Department of Transportation and Development of 5 percent of its gross income, or 10 percent of its outstanding URAF debt. The first payment must be made within one year of the date of invoicing of the utility by Department of Transportation and Development, and issuance of permits shall remain suspended until the first payment is made. The utility's payments shall be due by January 15 of each year. The Department of Transportation and Development shall suspend issuance of permits to any utility that fails to submit payment by this date. Partial payments will be accepted as payment toward the total debt; however, issuance of permits shall be suspended when a utility fails to make the required minimum payment. Since these options were not available prior to the promulgation of these rules, issuance of permits to utilities that have URAF agreements that were executed prior to January 1, 1993, may resume, if the utility begins to show a good faith effort to repay this debt, by making annual payments to DOTD of 5 percent of its gross income, or 10 percent of its outstanding URAF debt, by January 15, 1995. When issuance of permits is suspended because the utility failed to make the required minimum payment by the specified deadline, issuance may resume after the utility makes the minimum required payments on time for a period of three consecutive years, or by making a lump sum payment of 25 percent of the total remaining URAF funds owed to DOTD.

2. When in the best interest of the public, specific permits may be issued to utilities, without removing the general suspension, under the following circumstances:

a. eminent danger to the public or to the highway as the result of a damaged or faulty facility that is located within highway right-of-way, such as:

i. a leaking water or sewer line that is eroding the right-of-way;

ii. a leaking or exposed gas line, at Department of Transportation and Development discretion, these facilities may be repaired or replaced with a similar facility of equal capacity;

b. insufficient right-of-way available to place distribution lines to serve properties adjacent to the highway. This may occur in highly urbanized areas where there is no room to place utilities between the edge of the highway right-of-way and an adjacent structure, and the adjacent property cannot be accessed through an alternate route. If the physical space is available, the utility shall use its expropriation rights to secure the necessary right-of-way for its facilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Engineering, LR 18:

All interested persons so desiring shall submit oral or written data, views, comments or arguments no later than 30 days from the date of publication of this Notice of Intent to: John Collins, Engineer Supervisor, Department of Transportation and Development, Box 94245, Baton Rouge, LA 70804-9245, Phone: (504) 379-1509.

Jude W.P. Patin  
Secretary

### Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Utility Relocation Assistance Funding

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no additional cost to DOTD. All funds are approved on a project basis, and may consist of state and/or federal funds. The state has provided these funds to utilities for many years; this rule simply clarifies the process, and provides a definite means of repayment. The average cost of each utility relocation is \$25,000.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

At this time, issuance of permits is suspended until the debt is paid in full. This would allow these groups to save right-of-way expenses by locating their facilities within highway right-of-way. It is not possible to estimate this savings.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There may be a small decrease in some utility bills as a result of right-of-way savings, but the savings will be negligible.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment.

Jude W.P. Patin  
Secretary

John R. Rombach  
Legislative Fiscal Officer



## NOTICE OF INTENT

### Department of Treasury Teachers' Retirement System of Louisiana Program

#### Deferred Retirement Option Plan

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Trustees of the Teachers' Retirement System approved amendments to the Policies for Implementation of the Deferred Retirement Option Plan as follows:

6. c. completion of selected DROP participation period and termination of employment except when the DROP participation period is completed on any day other than the last day of any month. In such cases, the DROP account deposit shall be prorated to coincide with the date of completion of DROP participation and termination of employment. Retirement benefits shall begin the day after completion of the DROP participation period and termination of employment.

11. When termination of DROP occurs because of the death of the DROP participant, the participant is considered retired the day death occurs, and retirement benefits will become effective for the regular and DROP beneficiary(ies) on the first day of the month immediately following the death of the participant.

If the death occurs in the absence of the Affidavit of Plan Election the deceased participant will be treated as a non-retired, active death, and benefits will be paid to eligible survivors including spouses, spouses with minor children, minor children and non-spousal beneficiaries other than minor children in accordance with R.S. 11:762(B), (C), (D) and (F).

Interested persons may comment on the proposed amendments in writing until 4:30 p.m., November 10, 1992 at the following address: Graig A. Luscombe, Assistant Director, Teachers' Retirement System of Louisiana, Box 94123, Capitol Station, Baton Rouge, LA 70804-9123.

James P. Hadley, Jr.  
Director

#### Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: **Deferred Retirement Option Plan**

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This rule will have no impact on any expenditures of state or local governmental units.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This rule will have no impact on any revenues collected by state or local governmental units.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON- GOVERNMENTAL GROUPS (Summary)

This rule will have no cost or economic benefit to directly affected persons or non-governmental groups. The Teachers' Retirement System of Louisiana (TRSL) currently has statutory provisions in place which govern the duration

of participation in the Deferred Retirement Option Plan (DROP) and the treatment of the death of an individual who is eligible for retirement benefits but has not yet retired. This rule will permit TRSL to appropriately calculate DROP account deposits and retirement benefits for DROP participants and their beneficiary(ies).

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no impact on competition or employment.

James P. Hadley, Jr.  
Director

John R. Rombach  
Legislative Fiscal Officer

## NOTICE OF INTENT

### Department of Treasury Deferred Compensation Commission

#### Member Nomination and Election

In accordance with the Louisiana Administrative Procedure Act (R.S. 49:950 et seq.) notice is hereby given that the Deferred Compensation Commission intends to amend the Deferred Compensation Commission Procedures governing nomination and election of participant members to read as follows:

#### Procedures Governing the Nomination and Election of Participant Members

1. On or before the first day of January of each year, the commission shall appoint a nominating committee consisting of five participants, no two of whom are employed by the same department of state government and none of whom are members of the commission. Public notice of the appointment of the nominating committee shall be given in the same manner as that required for giving public notice of meetings of the commission.

2. The nominating committee shall submit to the commission the name of at least one participant for each vacancy that has occurred and the name of at least one participant for each term that is about to expire. Only participants who have been participants for more than two years prior to the date on which the term begins may be nominated.

3. Upon the receipt of the report of the nominating committee, the commission shall notify personnel officers of the receipt of the said report and shall request personnel officers to notify participants (by posting a notice in appropriate places or by other means) that the said report has been received and that additional nominations may be made by petition.

4. A participant may be nominated by petition if the petition contains the signatures of 12 participants and is received by the commission chairman or his/her designee prior to the deadline set forth in the notice supplied to personnel officers pursuant to Section 3 above. Only participants who have been participants for more than two years prior to the date on which the term begins may be nominated by petition. Petitioning participants' signatures must be accompanied by

their social security numbers. Each petition must be accompanied by a statement signed by the nominee in which the nominee expresses his or her willingness to serve if elected.

5. In the event two or more participants are nominated for a position on the commission, the commission chairman shall conduct a drawing to determine the order in which candidates' names will appear on the ballot. All nominees for a position shall be invited by the chairman to attend the drawing. Each ballot shall contain, in addition to the name of the nominee(s), a statement containing no more than 35 words, which statement shall be prepared by the nominee and shall contain biographical information and/or a statement concerning the nominee's position on one or more issues pertinent to the deferred compensation program. If and when the commission determines that the use of photographs of the nominees on the ballots will be feasible, the chairman shall provide all nominees with the opportunity to submit suitable photographs of themselves for use in preparation of the ballots. The submission of such a photograph shall be optional for each nominee.

6. A participant shall be eligible to participate in an election if that participant receives a first quarter statement of his account with the Louisiana Deferred Compensation Plan during the year in which the election is held. Ballots shall be distributed to participants with their first quarter statements. Each ballot shall be accompanied by a ballot envelope (clearly marked with instructions that the completed ballot shall be placed therein and the envelope sealed), a mailing envelope on which is printed the name and address of the commission, and a signature slip.

7. The participant's signature must appear on the signature slip together with the participant's social security number. The signature slip and the ballot envelope shall be placed in the mailing envelope. The signature slip must not be placed in the ballot envelope. The mailing envelope shall be mailed or delivered to the commission at the address printed on the mailing envelope.

8. The commission or the commission chairman, if authorized by the commission, shall appoint a ballot counting committee and the commission chairman shall invite all nominees to be present for the ballot counting.

9. The deadline for return of ballots and the date on which ballots will be counted shall both be fixed by the commission or by the commission chairman, if authorized by the commission.

10. Prior to counting the ballots, the ballot counting committee shall make such verification as is deemed appropriate. The committee shall also place the verified signature slip and the sealed ballot envelope in separate places of safekeeping pending the count of the vote. In the case of a questionable or challenged signature slip, the committee shall retain the signature slip and the sealed ballot envelope together until the verification has been completed or the challenge has been resolved.

11. No nominee shall be required to receive a majority of the votes in order to be elected. The nominee receiving a plurality of the votes cast shall be declared elected. In the event two or more nominees receive the same number of votes, the winner shall be chosen by the toss of a coin.

12. All participants shall be notified by means of a notice mailed to them with fourth quarter statements that an election will be held, and that ballots will be distributed to them with the first quarter statements.

13. Upon completion of its work, the ballot counting committee shall submit a written report to the chairman concerning the result of the election. The chairman shall make public the result of the election at the next commission meeting.

Interested persons may submit written comments on the proposed amendments to Kenneth C. DeJean, Secretary, Deferred Compensation Commission, Suite 702, 2237 South Acadian Thruway, Baton Rouge, LA 70808. Comments will be accepted through the close of business at 5 p.m. on October 2, 1992.

Kenneth C. DeJean  
Secretary

**Fiscal and Economic Impact Statement  
For Administrative Rules**

**Rule Title: Nomination and Election of Participant Members**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS)  
TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The estimated costs of implementing the proposed amendments for 1992-93 is \$6,442, or 46 cents per participant. Because the number of participants is growing the cost of implementing the proposed amendments is expected to increase each year. The amount of the increase can be calculated by multiplying .46 by the number of participants in excess of 14,000. In addition, printing, postage and mail handling costs are expected to increase at an average annual rate of 6 percent.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF  
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The implementation of the proposed rule amendment will have no effect on revenue collections of state and local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS  
TO DIRECTLY AFFECTED PERSONS OR NON-  
GOVERNMENTAL GROUPS (Summary)**

The implementation of the proposed rule amendment will result in neither costs nor economic benefits to the participants in the Deferred Compensation Program.

**IV. ESTIMATED EFFECT ON COMPETITION AND  
EMPLOYMENT (Summary)**

The implementation of the proposed rule amendment will have no effect on competition and employment.

Emery Bares  
Chairman

John R. Rombach  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission**

Menhaden Season

The Wildlife and Fisheries Commission does hereby give notice, in accordance with the Administrative Procedure Act, of its intent to promulgate a rule to establish legal menhaden fishing areas.

**Title 76  
Wildlife and Fisheries**

**Part VII. Fish and Other Aquatic Life**

**Chapter 3. Saltwater Sport and Commercial Fishing**

**§307. Menhaden Season**

\* \* \*

C. The menhaden season shall apply to all waters seaward of the inside-outside line described in R.S. 56:495 including waters in the Federal Exclusive Economic Zone (EEZ), and in Chandeleur and Breton Sounds as described below. All other inside waters and passes are permanently closed to menhaden fishing.

D. For purposes of the menhaden season, Breton and Chandeleur Sounds are described as that portion of the statutorily described inside waters as shown on a map by Raymond C. Impastato, P.L.S., dated July 20, 1992, and more particularly described as follows:

Beginning at the most northerly point on the south side of Taylor Pass, Lat. 29°23'00"N., Long. 89°20'06"W. which is on the inside-outside shrimp line as described in R.S. 56:495; thence westerly to Deep Water Point, Lat. 29°23'36"N., Long. 89°22'54"W.; thence westerly to Coquille Point, Lat. 29°23'36"N., Long. 89°24'12"W.; thence westerly to Raccoon Point, Lat. 29°24'06"N., Long. 89°28'10"W.; thence northerly to the most northerly point of Sable Island, Lat. 29°24'54"N., Long. 89°28'27"W.; thence northwesterly to California Point, Lat. 29°27'33"N., Long. 89°31'18"W.; thence northerly to Telegraph Point, Lat. 29°30'57"N., Long. 89°30'57"W.; thence northerly to Mozambique Point, Lat. 29°37'20"N., Long. 89°29'11"W.; thence northeasterly to Grace Point (red light no. 62 on the M.R.G.O.), Lat. 29°40'40"N., Long. 89°23'10"W.; thence northerly to Deadman Point, Lat. 29°44'06"N., Long. 89°21'05"W.; thence easterly to Point Lydia, Lat. 29°45'27"N., Long. 89°16'12"W.; thence northerly to Point Comfort, Lat. 29°49'32"N., Long. 89°14'18"W.; thence northerly to the most easterly point on Mitchell Island, Lat. 29°53'42"N., Long. 89°11'50"W.; thence northerly to the most easterly point on Martin Island, Lat. 29°57'30"N., Long. 89°11'05"W.; thence northerly to the most easterly point on Brush Island, Lat. 30°02'42"N., Long. 89°10'06"W.; thence northerly to Door Point, Lat. 30°03'45"N., Long. 89°10'08"W.; thence northerly to the most easterly point on Isle Au Pitre, Lat. 30°09'27"N., Long. 89°11'02"W.; thence north (grid) a distance of 19214.60 feet to a point on the Louisiana - Mississippi Lateral Boundary, Lat. 30°12'37.1781"N., Long. 89°10'57.8925"W.; thence S60°20'06"E (grid) along the Louisiana - Mississippi Lateral Boundary a distance of 31555.38 feet, Lat. 30°09'57.4068"N., Long. 89°05'48.9240"W.; thence S82°53'53"E (grid) continuing along the Louisiana - Mississippi Lateral Boundary a distance of 72649.38 feet, Lat. 30°08'14.1260"N., Long. 89°52'10.3224"W.; thence South (grid) a distance of 32521.58 feet to the Chandeleur Light, Lat. 30°02'52"N., Long. 88°52'18"W., which is on the inside-outside shrimp line as described in R.S. 56:495; thence southeasterly along the inside-outside shrimp line as described in R.S. 56:495 to the point of beginning.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 56:313, 56:6(25)(a), and 56:326.3.

**HISTORICAL NOTE:** Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR

5:329 (October 1979), amended LR 15:546 (August 1988), amended LR 18:

Interested persons may submit written comments relative to the proposed rule until 4:30 p.m., October 16, 1992 to Vince Guillory, Marine Fisheries Project Coordinator, Marine Fisheries Division, Department of Wildlife and Fisheries, Box 189, Bourg, LA 70343.

James H. Jenkins, Jr.  
Chairman

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: Menhaden Season**

- I. **ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**  
The proposed rule will have no implementation costs. Enforcement of the proposed rule will be carried out using the existing staff in conjunction with other duties.
- II. **ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**  
The proposed rule will slightly increase revenue collections of state and local governmental units.
- III. **ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)**  
The menhaden industry will not incur additional costs associated with the proposed rule, but will realize additional, unquantifiable revenues by not excluding the fishing fleet from productive, historically utilized areas.
- IV. **ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**  
The proposed rule will have no impact on competition and employment.

Joe L. Herring  
Secretary

David W. Hood  
Senior Fiscal Analyst

# Potpourri

## POTPOURRI

**Department of Environmental Quality  
Office of Air Quality and Radiation Protection  
Air Quality Division**

Inspection and Maintenance Program  
Public Hearing

The Department of Environmental Quality, Air Quality Division will conduct a public hearing to receive comments regarding a proposed commitment to revise the State

Implementation Plan (SIP). Proposed revisions address the design and implementation of an enhanced motor vehicle inspection and maintenance program for the purpose of controlling emissions of hydrocarbons, carbon monoxide, and NOx from light duty vehicles in the six parish Baton Rouge area non attainment area. The hearing will be held on October 26, 1992 at 1:30 p.m. at the Maynard Ketcham Building, Room 341 (Recital Room), 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral and written comments.

Interested persons may submit written comments no later than October 27, 1992, at 4:30 p.m. to David Hughes, Enforcement and Regulatory Compliance Division, Box 82282, Baton Rouge, LA, 70884-2282 or to 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810. Interested persons may review the proposed commitment to the SIP revision at DEQ headquarters, Second Floor, at 7290 Bluebonnet Boulevard, Baton Rouge, LA.

Joan Albritton  
Administrator

#### POTPOURRI

##### Department of Environmental Quality Office of Air Quality and Radiation Protection Air Quality Division

##### SIP-Public Hearing

The Department of Environmental Quality (DEQ), Air Quality Division will conduct a public hearing to receive comments regarding proposed revisions to the State Implementation Plan (SIP). The proposed revisions will address stage II vapor recovery systems for control of vehicle refueling emissions at gasoline dispensing facilities.

The public hearing will be held on October 26, 1992, at 1:30 p.m. on the third floor of the Maynard Ketcham Building, Room 341 (Recital Room), 7290 Bluebonnet Boulevard, Baton Rouge, LA. All interested persons are invited to attend and submit written and oral comments on the proposed SIP revisions. Written comments may be submitted no later than October 27, 1992 at 4:30 p.m., to David Hughes, Enforcement and Regulatory Compliance Division, Box 82282, Baton Rouge, LA, 70884-2282 or to 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA, 70810. A copy of the proposed SIP revision will be available for public review September 20, 1992, from the Enforcement and Regulatory Compliance Division, Box 82282, Baton Rouge, LA, 70884-2282 or from 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810.

Joan Albritton  
Administrator

#### POTPOURRI

##### OFFICE OF THE GOVERNOR

##### Office of the Oil Spill Coordinator

In accordance with R.S. 30:2458(A), notice is hereby given that the first meeting of the Oil Spill Interagency Council will be held on October 22, 1992, at the State Capitol, 4th Floor Press Conference Room, at 10 a.m. All interested persons are cordially invited to attend.

The public may submit written comments. If you should need any further information, please call (504) 922-3230.

Roland J. Guidry  
Louisiana Oil Spill Coordinator

#### POTPOURRI

##### Department of Health and Hospitals Board of Embalmers and Funeral Directors

The Board of Embalmers and Funeral Directors will give the National Board Funeral Director and Embalmer/Funeral Director exams on Saturday, September 26, 1992 at Delgado Community College, 615 City Park Ave., New Orleans, LA.

Interested persons may obtain further information from the Board of Embalmers and Funeral Directors, Box 8757, Metairie, LA 70011, (504) 838-5109.

Dawn Scardino  
Confidential Assistant

#### POTPOURRI

##### Department of Health and Hospitals Office of Management and Finance Division of Policy and Program Development

##### Community-Based and Rural Health Program

The Department of Health and Hospitals' Division of Policy and Program Development will accept letters of intent for the following:

1. **EMERGENCY HEALTH SERVICES.** Small rural hospitals, defined herein, on the intended use of up to \$75,000 in State grants to strengthen the capability of small rural hospitals to provide high quality emergency health services to indigent and low-income persons in rural areas. Hospitals that are eligible to apply are public and private acute care hospitals licensed for 60 beds or less which have a service municipality with a population of 20,000 or less.

The letter of intent should reflect how the funds requested will further this goal. Grant recipients will be required to maintain an audit trail verifying that any monies received under this grant program were in fact used to enhance emergency room services.

Letters of intent will be accepted until September 30, 1992 and processed according to receipt and awards will be issued accordingly.

2. **PRIMARY CARE CLINIC GRANTS.** Eligible appli-

cants include existing federally funded community health centers or public or private organizations located in federally designated medically underserved areas. All interested applicants must submit a letter of intent prior to a completed application kit.

Application kits may be obtained by sending letters of intent to the Department of Health and Hospitals' Division of Policy and Program Development, P.O. Box 1349, Baton Rouge, LA 70821-1349. Completed application kits will be accepted until November 1, 1992.

3. **DEMONSTRATION GRANTS.** Existing federally-funded community health centers or public or private organizations located in local communities or rural areas may apply for a demonstration grant to fund a project designed to innovatively, efficiently, and effectively develop and provide needed primary health care.

The Department of Health and Hospitals anticipates awarding demonstration grant(s) to innovatively develop primary care services in rural areas and local communities, including but not limited to such projects as the establishment or acquisition of mobile health clinics. The amount of available funds for this purpose is limited, and the grantee will be required to provide a 25 percent match to the funds; for example, \$100,000 State and \$25,000 Applicant.

The proposal format should be determined by the applicant and should clearly describe the proposed project's goals and objectives and strategies to accomplish the goals and objectives. Additionally, the proposal should address a needs assessment, a management plan, a detailed budget, and budget justification. The proposal, including any appendices, may not exceed 50 typed double-spaced letter-sized pages. Completed proposals must be sent to the Division of Policy and Program Development, Box 1349, Baton Rouge, LA 70821-1349. Applications are due by November 15, 1992.

4. **STATE MATCHING FUNDS FOR FEDERAL GRANTS.** Applications will be accepted for projects to provide community-based health services to indigent or low-income persons, as proposed in a federal grant application proposal. Applications are due by November 15, 1992.

5. **PHYSICIAN SALARY SUBSIDY.** Local health agencies or communities may apply for state matching funds for physician salary guarantees of \$100,000 annually in salary and benefits, to assist in recruiting or retaining primary care physicians in local communities and rural areas. State salary subsidies will not exceed \$50,000, and the local agency/community must demonstrate its ability to at least match the state amount. The local agency/community match may include but is not limited to cash; fringe benefits; rent; clerical, medical records, and billing support; continuing education stipend(s); and medical malpractice coverage.

The Department of Health and Hospitals will contract directly with local health agencies, who in turn contract with physicians. As such, local health agencies must submit with their request for assistance under this provision, a copy of a proposed contract with a physician. Such contract must address the \$100,000 guarantee. The Department of Health and Hospitals will make no payments under this recruitment/retention incentive until the physician's actual received income and benefits are reconciled against his/her contract guarantees.

Should the number of requests under this provision exceed the available funds, the Department of Health and Hospitals reserves the right to prioritize requests based on

the health professional shortage area's ratio of population to primary care physicians.

It should be noted that the provisions of this notice are contingent upon the availability of funds.

Interested persons may submit letters of intent or request applications to the following address: Suzanne Lavergne, Office of Management and Finance Division of Policy and Program Development, Box 1349, Baton Rouge, LA 70821-1349, FAX number 504/342-5839.

J. Christopher Pilley  
Secretary

### POTPOURRI

#### Department of Health and Hospitals Office of Public Health

The Department of Health and Hospitals, Office of Public Health, as requested, will also hold a public hearing on September 25, 1992 on proposed changes to Chapters I and XIII of the Louisiana State Sanitary Code.

The above referenced proposed changes appeared as notices of intent on pages 901 and 902 respectively in the *Louisiana Register* as published August 20, 1992. The requested public hearing on proposed changes to Chapters I and XIII of the Sanitary Code will be held on September 25, 1992 beginning at 9 a.m. prior to a previously scheduled public hearing on Chapter XXI of the State Sanitary Code. These scheduled hearings will take place in the first floor auditorium of the Department of Transportation and Development located at 1201 Capitol Access Road, Baton Rouge, Louisiana.

J. Christopher Pilley  
Secretary

### POTPOURRI

#### Department of Natural Resources Office of the Secretary Fishermen's Gear Compensation Fund

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that 46 claims in the amount of \$120,675.48 were received in the month of August 1992, 68 claims in the amount of \$160,063.74 were paid, and four claims were denied.

Loran C. coordinates of reported underwater obstructions are:

28793	46775	Plaquemines
28633	46872	Jefferson
26886	46967	Cameron
27255	46938	Vermilion
28790	47040	Lake Pontchartrain
27390	46930	Iberia
29146	49009	St. Bernard
27368	46944	Iberia
28345	46828	Lafourche
27333	46944	Vermilion
28834	46774	Plaquemines
27519	46914	Iberia

28576	46857	Jefferson
28808	46844	Plaquemines
28365	46835	Lafourche
28978	46902	St. Bernard
28841	46813	Plaquemines
28630	46868	Plaquemines
27361	46940	Iberia
28967	46883	Plaquemines
29019	46920	St. Bernard
28519	46854	Jefferson

A list of claimants, and amounts paid, may be obtained from the Fishermen's Gear Compensation Fund, Box 94396, Baton Rouge, LA 70804, or by telephone (504) 342-0122.

John F. Ales  
Secretary

**POTPOURRI**

**Department of Social Services  
Office of Family Support**

**Food Stamp Disaster Program**

Notice is hereby given that the U.S. Department of Agriculture (USDA), Food and Nutrition Services, because of Hurricane Andrew, has declared a disaster in all of St. Mary and Iberia Parishes and parts of St. Martin and Terrebonne Parishes. Therefore, the Department of Social Services, Office of Family Support, in order to comply with federal regulations at 7 CFR Part 280, has implemented the Emergency Food Assistance Program for Victims of Disasters in those areas. The program is in effect from September 1, 1992 through September 7, 1992. A second Emergency Food Assistance Program is also being implemented for the period September 8, 1992 through September 12, 1992 following the USDA declaration of disaster in additional parts of St. Martin and Terrebonne.

The USDA Disaster Income Limits for the federal fiscal year October 1, 1991 through September 30, 1992 are provided in the following chart:

Household Size	100%	Standard Deduction	Shelter Deduction	100% + Deducts
1	552	122	194	868
2	740	122	194	1,056
3	929	122	194	1,245
4	1,117	122	194	1,433
5	1,305	122	194	1,621
6	1,494	122	194	1,810
7	1,682	122	194	1,998
8	1,870	122	194	2,186
Each Add'l	189			189

Other eligibility criteria designated by USDA are taken from the proposed federal regulations as published in the

*Federal Register*, Vol. 48, No. 17, January 27, 1981. USDA has established the benefit amounts. Eligible households will be issued a full one-month allotment.

Gloria Bryant-Banks  
Secretary

**POTPOURRI**

**Department of Social Services  
Rehabilitation Services**

**Three-Year State Plan Public Hearing**

The Department of Social Services, Louisiana Rehabilitation Services, is in the process of completing its annual update and assurance of its Three-Year State Plan and will conduct public hearings in accordance with its federal mandate to solicit public input. A copy of the Three-Year State Plan is available for review by the public at the Louisiana Rehabilitation Services (LRS) Office, 1755 Florida Boulevard, Baton Rouge, LA 70802. Interested parties may call the office at 342-2294 to arrange to review the Three-Year State Plan. A copy of the Three-Year State Plan may also be reviewed at the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70804.

The public hearings beginning at 10 a.m. will be held, on September 25, 28, and October 2, 1992, in Baton Rouge, Shreveport and New Orleans respectively. The hearing locations are as follows:

Baton Rouge	1755 Florida Boulevard	LRS State Office
Shreveport	1525 Fairfield Avenue	LRS Regional Office
New Orleans	2026 St. Charles Avenue	LRS Regional Office

All interested persons will be afforded an opportunity to express issues, views, or concerns at the hearings. Written commentary will also be accepted by LRS prior to the hearings, during the hearings, and up through October 5, 1992, after the hearings.

Gloria Bryant-Banks  
Secretary

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